रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003--05 REGD. NO. D. L. (N) 04/0007/2003--05

भारत का राजपत्र
The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

साप्ताहिक
WEEKLY

सं. 8] नई दिल्ली, फरवरी 17—फरवरी 23, 2013, शनिवार/माघ 28—फाल्गुन 4, 1934
No. 8] NEW DELHI, FEBRUARY 17—FEBRUARY 23, 2013, SATURDAY/MAGHA 28—PHALGUNA 4, 1934

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

कार्मिक, लोक शिकायत और पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 8 फरवरी, 2013

का. आ. 436.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 सपठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्य सरकार, गृह (पुलिस) विभाग, की दिनांक 6 दिसम्बर, 2012 की अधिसूचना संख्या I-सीबीआई 80 03/2012 एच.(पी)/9441 द्वारा प्राप्त सहमति से दिनांक 26 7 2012 की शिकायत डीआरआई-एफ.संख्या 718(II)/08/एसईआईजेड/ पीआरयू/ 2012-13 जोकि मसरूर अहमद उर्फ मास्टर, आयु 34 वर्ष, पुत्र मकबूल गनी, निवासी-ग्राम अधकपारिया, पोस्ट एवं थाना-रामगढ़वा, जिला-पूर्वी चम्पारन तथा सूरज कुमार सिंह आयु 24 वर्ष पुत्र श्री बाघेश्वर सिंह निवासी ग्राम एवं पोस्ट कथन, पुलिस थाना केशरिया, जिला पूर्वी चम्पारन द्वारा देश में थाईलैंड से आयात किए गए होम थियेटर में एफआईसीएन छिपा कर तस्करी करने में शामिल होने पर दिनांक 25 7-2012 को 24,50,000 रुपए के जाली भारतीय नोटों को राजस्व आसूचना निदेशालय, पटना द्वारा जब्त करने के सम्बंध भारतीय दंड संहिता, 1860 (1860 का अधिनियम संख्या 45) के अधीन धाराओं 489-ए, 489-बी, 489-सी और 120 बी के तहत किए गए अपराधों तथा प्रयास, दुष्प्रेरणा और इस सम्बंध में षड्यंत्र अथवा उपर्युक्त उल्लिखित अपराध के सम्बंध में तथा सी संव्यवहार में किए गए कोई अन्य अपराध या अपराधों या इन तथ्यों से उत्पन्न अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण बिहार राज्य के सम्बंध में करती है।

[सं. 228/48/2012 एवीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

New Delhi, the 8th February, 2013

S. O. 436 .—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No.25 of 1946), the Central Government with the consent of the State Government of Bihar, Home (Police) Department, vide Notification No. 1/C.B.I-80-03/2012 H.(P)/9441 dated 6th December, 2012, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Bihar for investigation and inquire into the complaint DRI-F.No.718(II)/08/SEIZ/PRU/2012-13 dated 26-7-2012 which

disclose the Commission of offences under sections 489-A, 489-B, 489-C and 120-B of the Indian Penal Code, 1860 (Act No.45 of 1860) relating to seizure of Fake Indian Currency Notes of Rs.24,50,000 effected on 25-07-2012 by the Directorate of Revenue Intelligence, Patna from Masoor Ahmad alias Master, aged 34 years S/o Maqbool Gani, resident of Village - Adhakarparia, Post and Police Station Ramgarhawa, District-East Chamaparan and Suraj Kumar Singh, aged 24 years S/o Sri Bhageshwar Singh resident of Village and Post Kadhan, Kesaria Police Station, District East Champaran involved in smuggling of FICN concealed in a Home Theater imported from Thailand for circulation in the country and attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in course of the same transaction or arising out of the same facts

[F. No. 228/48/2012-AVD-II]

RAJIV JAIN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 5 फरवरी, 2013

का. आ. 437 .—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में राजस्व विभाग के अधीन प्रवर्तन निदेशालय के निम्नलिखित क्षेत्रीय और उप क्षेत्रीय कार्यालयों को अधिसूचित करती है जिनके 80% से अधिक कर्मचारियों ने हिन्दी का कार्य साधक ज्ञान प्राप्त कर लिया है:—

1. कोचीन क्षेत्रीय कार्यालय, प्रवर्तन निदेशालय, चतुर्थ तल, थाराकंडम सेन्टर, बनर्जी रोड, कोचीन-682018
2. कालीकट उप क्षेत्रीय कार्यालय, प्रवर्तन निदेशालय, तृतीय तल, केन्द्रीय भवन, एम.एस. बाबूराज मार्ग, कल्लाई, कालीकट, केरल-673003
3. भुवनेश्वर उप क्षेत्रीय कार्यालय, प्रवर्तन निदेशालय, एन-3/134, नया पल्ली, भुवनेश्वर-751015 (ओडिशा)

[फा. सं. ई-11017/1/2012-एडी (हिंदी-4)]

चंद्रभान नारनौली, निदेशक (राजभाषा)

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 5th February, 2013

S. O. 437 .—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976 the Central Government herbey notifies the following Regional and Sub-Regional offices of the Directorate of Enforcement under the Department of Revenue, where more than 80% staff have acquired the working knowledge of Hindi.

1. Cochin Regional Office, Directorate of Enforcement, IVth floor, Tharakkandam Centre, Banerji Road, Cochin-682018
2. Calicut Sub-regional office, Directorate of Enforcement, IIIrd Floor, Kendriya Bhavan, M.S Baburaj Road, Kallai, Calicut, Kerala-673003
3. Bhubaneshwar Sub-regional office, Directorate of Enforcement, N-3/134, Naya Palli, Bhubaneshwar-751015 (Odisha)

[F. No. E-11017/1/2012-AD (Hindi-4)]

CHANDERBHAN NARNAULI, Director (OL)

विदेश मंत्रालय

(सीपीवी प्रभाग)

नई दिल्ली, 13 फरवरी, 2013

का. आ. 438 .—राजनयिक और कांसलीय ऑफिसर (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में केंद्र सरकार एतद्द्वारा श्रीमती पदमा रानी सैकिया, सहायक को 13/2/13 से भारत के राजदूतावास, ग्वाटेमाला में सहायक कोंसुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है ।

[सं. टी. 4330/01/2006]

आर. के. पेरिनडिया, अवर सचिव (कोंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 13th February, 2013

S.O . 438.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Smt. Padma Rani Saikia, Assistant, Embassy of India, Guatemala to perform the duties of Assistant Consular Officer with effect from 13th February, 2013.

[No. T. 4330/01/2006]

R. K. PERINDIA, Under Secy. (Consular)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 7 फरवरी, 2013

का. आ.439 .—केंद्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में क्षेत्रीय प्रचार निदेशालय, पूर्वी ब्लॉक-IV, लेवल-III, आर.के. पुरम, नई दिल्ली (सूचना और प्रसारण मंत्रालय) के निम्नलिखित अधीनस्थ कार्यालयों, जिनके 80% से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. प्रादेशिक कार्यालय, भुवनेश्वर

2. क्षेत्रीय प्रचार निदेशलय, बालेश्वर
3. क्षेत्रीय प्रचार कार्यालय, बरहमपुर
4. क्षेत्रीय प्रचार कार्यालय, सम्बलपुर

[फा. सं. ई-11017/6/2012-हिंदी]
प्रियम्वदा, निदेशक (रा.भा.)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 7th February, 2013

S.O. 439 .—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under Directorate of Field Publicity, R.K. Puram, New Delhi (Ministry of Information and Broadcasting), more than 80% of the staff whereof have acquired the working knowledge of Hindi :—

1. Regional office, Bhubaneswar
2. Field Publicity office, Baleswar
3. Field Publicity office, Berhampur
4. Field Publicity office, Sambalpur

[F. No. E-11017/6/2012-Hindi]

PRIYAMVADA, Director (O.L.)

विद्युत मंत्रालय

नई दिल्ली, 6 फरवरी, 2013

का. आ. 440 .—इस मंत्रालय की दिनांक 30-3-2012 को समसंख्यक अधिसूचना के अधिक्रमण में और 17-8-2006 को अधिसूचित मुख्य बिजली निरीक्षक और बिजली निरीक्षक नियमावली, 2006 के अर्हता, विद्युत और कार्य के साथ पठित विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उप-धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्द्वारा श्री एस.पी. खाड़े, निदेशक (तकनीकी), मुम्बई महानगर क्षेत्र विकास प्राधिकरण (एमएमआरडीए) को इस अधिसूचना की तारीख से एमएमआरडीए में उनके कार्यकाल तक उपर्युक्त नियम में उल्लिखित अर्हता और शर्त को पूरा करने के अध्यधीन एमएमआरडीए की मेट्रो और मोनो रेल परियोजनाओं के लिए मुख्य बिजली निरीक्षक के रूप में नियुक्त करती है ।

उपर्युक्त उल्लिखित अधिकारी केंद्रीय विद्युत प्राधिकरण (सुरक्षा और विद्युत आपूर्ति से संबंधित उपाय) विनियम, 2010 में दी गई प्रक्रिया के अनुसार एमएमआरडीए के अधिकार वाले क्षेत्रों अथवा एमएमआरडीए के नियंत्रणाधीन/एमएमआरडीए से संबंधित कार्यों के संबंध में तथा सभी बिजली संस्थापनाओं में बिजली कार्यों, बिजली संस्थापनाओं, बिजली रोलिंग स्टॉक के संबंध में अधिकार का प्रयोग करेंगे और अपना कार्य निष्पादित करेंगे ।

एमएमआरडीए यह सुनिश्चित करेगा कि एमएमआरडीए में निदेशक (तकनीकी) के रूप में श्री एस.पी. खाड़े को दिये गये कार्यों के संबंध में वह मुख्य बिजली निरीक्षक नहीं होंगे ।

मुख्य बिजली निरीक्षक के रूप में नियुक्त व्यक्ति वह प्रशिक्षण लेंगे जिसे केंद्र सरकार इस उद्देश्य के लिए आवश्यक समझे तथा ऐसा प्रशिक्षण सरकार की संतुष्टि के स्तर तक पूरा किया जाएगा ।

[फा. सं.-42/3/2010-आर एण्ड आर]
ज्योति अरोड़ा, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 6th February, 2013

S.O. 440.—In supersession of this Ministry's Notification of even number dated 30-03-2012 and in exercise of the powers conferred by sub-section (1) of section 162 of the Electricity Act, 2003 (36 of 2003) read with Qualification, power and function of Chief Electrical Inspector and Electrical Inspectors Rules, 2006 notified on 17-8-2006, the Central Government hereby appoints Shri S.P. Khade Director (Technical), Mumbai Metropolitan Region Development Authority (MMRDA), as Chief Electrical Inspector for Metro and Mono Rail projects of MMRDA, from the date of this Notification till his tenure in MMRDA, subject to fulfillment of the qualification and Condition mentioned in the above Rule.

The above mentioned officer shall exercise the powers and perform his functions in respect of electrical works, electrical installations and electrical rolling stock in operation within the areas occupied by the MMRDA or in respect of works and all electrical installations under the control of MMRDA/belonging to MMRDA as per the procedure provided in Central Electricity Authority (Measures relating to Safety and Electricity Supply) Regulations, 2010.

MMRDA will ensure that Shri S.P.Khade will not be Chief Electrical Inspector in respect of the work assigned to him as Director (Technical) in MMRDA.

The person appointed as Chief Electrical Inspector shall undergo such training as the Central Government may consider it necessary for the purpose and such training shall be completed to the satisfaction of the Government.

[F. No. 42/3/2010-R&R]

JYOTI ARORA, Jt. Secy.

उपभोक्ता मामले, खाद्य एवं सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 8 फरवरी, 2013

का.आ. 441.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भामा.सं.	भाग	अनु.	वर्ष
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	3902055	31-12-2012	मेसर्स पर्वती एग्रो प्लास्ट जे-26, एमआईडीसी कुपवड तालुका मिरज जिला सांगली महाराष्ट्र-416436	पेयजल आपूर्ति के लिए उच्च घनत्व के पॉलीइथाइलीन पाइप्स	4984			1995
2.	3902560	1-1-2013	मेसर्स पारस पीवीसी पाइप एंड फिटिंग्स प्रा.लि. स.नं. 191 से 193 10वां माइल स्टोन भालवानी तालुका पारनेर जिला अहमदनगर महाराष्ट्र-414103	बोर/नलकूप के लिए अप्लास्टिकृत पीवीसी स्क्रीन और केसिंग पाइप	12818			2010
3.	3908976	10-1-2013	मेसर्स मलगंगा मिल्क एंड एग्रो प्रॉडक्ट्स प्रा.लि. गट सं. 2083, निघोज तालुका पारनेर जिला अहमदनगर, महाराष्ट्र-414306	मलाई निकाला हुआ दूध पावडर-विशिष्टि-भाग 1 : मानक श्रेणी	13334	1		1998
4.	3806564	3-1-2013	मेसर्स श्रीनिवास इंडस्ट्रीज स.न. 23/3/ए/पी हदगांव तालुका हदगांव जिला नांदेड महाराष्ट्र-431712	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543	-	-	2004
5.	3913464	22-1-2013	मेसर्स सनफ्रेश एग्रो इंडस्ट्रीज प्रा. लि. गट सं. 121/5 से 121/10 एट रांजनखोल, पोस्ट तिलकनगर, तालुका राहाता जिला अहमदनगर महाराष्ट्र-413720	संघनित दूध, आंशिक रूप से मलाई और मलाई रहित गाढ़ा दूध	1166	-	-	1986

[सं. सीएमडी/13:11]

बी. एम. हनीफ, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 8th February, 2013

S.O. 441. —In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licences No.	Grant Date	Name and Address of the Party	Title of the Standard	IS No.	Part	Sec.	Year
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	3902055	31-12-2012	M/s. Parvati Agro Plast J-26, MIDC Kupwad Taluka Miraj District Sangli Maharashtra-416436	High density polyethylene pipes for potable water supplies	4984			1995
2	3902560	1-1-2013	M/s. Paras PVC Pipes And Fittings Pvt. Ltd., S. No. 191 to 193 10th Mile Stone Bhalwani, Taluka parner District Ahmednagar Maharashtra-414103	Unplasticized PVC screen and casing pipes for bore/ tubewell	12818			2010
3	3908976	10-1-2013	M/s. Malganga Milk & Agro Product Pvt. Ltd., Gut No. 2083 Nighoj, Taluka Parner District Ahmednagar Maharashtra-414306	Skimmed Milk Powder-Specification-Part 1 : Standard Grade	13334	1		1998
4	3806564	3-1-2013	M/s. Shriniwas Industries Sr. No. 23/3 A/P Hadgaon Taluka Hadgaon District Nanded Maharashtra-431712	Packaged drinking water (Other than packaged natural mineral water)	14543			2004
5	3913464	22-1-2013	M/s. Sunfresh Agro Industries Pvt. Ltd., Gut No. 121/5 to 121/10 At Ranjankhol Post Tilak Nagar Taluka Rahata District Ahmednagar Maharashtra-413720	Condensed Milk, Partly Skimmed and Skimmed Condensed Milk	1166			1986

[No. CMD/13 : 11]

B. M. HANEEF, Scientist 'F' and Head

नई दिल्ली, 8 फरवरी, 2013

का. आ. 442.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 5 के उपविनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :—

अनुसूची

क्रम सं.	लाइसेंस संख्या सीएम/एल-	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1.	7818692	मेसर्स कार्तिक एग्रो केम प्रा.लि. प्लाट नं. डी-102, एमआईडीसी इंड. एरिया जिला नांदेड, महाराष्ट्र-431603	भामा 4985 : 2000 पेयजल आपूर्ति के लिए अप्लास्टिकृत पीवीसी पाइप्स	15-1-2013

[सं. सीएमडी/13:13]

बी. एम. हनीफ, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 8th February, 2013

S.O. 442.- In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with efect from the date indicated against each :—

SCHEDULE

Sl. No.	Licences No.CM/L	Name and Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of cancellation
1	7818692	M/s Kartik Agro Chem Pvt. Ltd., Plot No. D-102, MIDC Indl. Area District Nanded Maharashtra-431603	IS 4985 : 2000 Unplasticized PVC pipes for potable water supplies	15-1-2013

[No. CMD/13 : 13]]

B. M. HANEEF, Scientist 'F' & Head

नई दिल्ली, 8 फरवरी, 2013

का. आ. 443 .—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम सं.	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं./भाग/खण्ड/वर्ष
1	2	3	4	5	6
1	3902156	1 01-2013	प्रेसिसीयन इलेक्ट्रीकल्स, तल मंजिल, गाला सं. 3 एवं 4, चौधरी इण्डस्ट्रीयल इस्टेट, विलेज नावधार, वसई पूर्व, जिला ठाणे-401210 महाराष्ट्र	घरेलु और समान प्रयोजनों के लिए स्विचें	भा.मा. 3854 : 1997
2	3904362	3 01 2013	माईलस्टोन इण्डस्ट्रीज गाला सं. बी 10, तिरूपति उद्योग नगर, इण्डस्ट्रीयल प्रिमायसेस को आपरेटिव सोसाइटी लि. सातीवली रोड, विलेज वालीव, तालुका वसई पूर्व, जिला ठाणे-401208 महाराष्ट्र	बिजली के घरेलू खाद्य मिक्सर (द्रवीपरक और ग्राइन्डर)	भा.मा. 4250 : 1980

1	2	3	4	5	6
3.	3906265	3-01-2013	क्लीक होम अप्लायंसेस तल मंजिल, गाला सं. 5, तिरूपति को. हा. सोसायटी, माकडवाला कंपाउण्ड शिवाजी नगर, अप्पा पाडा रोड, मालाड पूर्व, मुंबई-400097	बिजली के घरेलू खाद्य मिक्सर (द्रवीपरक और ग्राइन्डर)	भा.मा. 4250 : 1980
4.	3912563	03-01-2013	कोना इण्डस्ट्रीज 28, श्रीनाथ इण्डस्ट्रीयल इस्टेट, साईनाथ को आपरेटिव सोसायटी, ऑफ महाकाली केव्से रोड, अंधेरी पूर्व, मुंबई-400093	घरेलू और समान प्रयोजनों के लिए स्विचे	भा.मा. 3854 : 1997
5.	3912664	3/01/2013	कोना इण्डस्ट्रीज 28, श्रीनाथ इण्डस्ट्रीयल इस्टेट, साईनाथ को आपरेटिव सोसायटी, ऑफ महाकाली केव्स रोड, अंधेरी पूर्व, मुंबई-400093	250 वोल्टता और 16 एम्पीअर्स तक रेटित धारा के प्लगस और सॉकेट-	भा.मा. 1293 : 2005
6.	3912765	3-01-2013	कोना इण्डस्ट्रीज 28, श्रीनाथ इण्डस्ट्रीयल इस्टेट, साईनाथ को आपरेटिव सोसायटी, ऑफ महाकाली केव्स रोड, अंधेरी पूर्व, मुंबई-400093	सीलिंग रोजिज	भा.मा. 371 : 1999
7.	3906063	7/01/2013	एंकर इलेक्ट्रीकल्स, प्रा. लि., यू-1, 66/2, 66/3, 66/5, 67/1, 67/2, पतालिया रोड, भीमपोर, नानी दमन, जिला दमन केन्द्र शासित प्रदेश दमन एवं दीव-396210	250 वोल्टता और 16 एम्पीअर्स तक रेटित धारा के प्लगस और सॉकेट आउटलेटस	भा.मा. 1293 : 2005
8.	3906164	7-01-2013	एंकर इलेक्ट्रीकल्स, प्रा. लि., यू-1, 66/2, 66/3, 66/5, 67/1, 67/2, पतालिया रोड, भीमपोर, नानी दमन, जिला दमन केन्द्र शासित प्रदेश दमन एवं दीव-396210	इलेक्ट्रोनिक टाइप फॅन रेग्युलेटर	भा.मा. 11037 : 1984
9.	3915064	22-01-2013	जी नाईन मोडुलर प्रा.लि., फोर्स हाउस, बीकेटी इण्डस्ट्रीयल पार्क, सेक्टर बी, गौराइपाडा, वरुण इण्ड. के नजदीक, वालीव जिला ठाणे-401208, महाराष्ट्र	250 वोल्टता और 16 एम्पीअर्स तक रेटित धारा के प्लगस और सॉकेट आउटलेटस	भा.मा. 1293 : 2005
10.	3915165	22-01-2013	जी नाईन मोडुलर प्रा.लि., फोर्स हाउस, बीकेटी इण्डस्ट्रीयल पार्क, सेक्टर बी, गौराइपाडा, वरुण इण्ड. के नजदीक, वालीव जिला ठाणे-401208, महाराष्ट्र	घरेलू और समान प्रयोजनों के लिए स्विचें	भा.मा. 3854 : 1997

1	2	3	4	5	6
11.	3913767	28/01/2013	क्रॉम्पटन ग्रीव्ज लि. मशीन IV डिविजन 196, 197 एवं 198, कुनदैम इण्डस्ट्रीयल इस्टेट, कुनदैम, जिला उत्तर गोवा, गोवा-403115	श्री फेज इण्डक्शन मोटर	भा. मा. 325 : 1996
12.	3914567	30/01/2013	पार्श्व इण्डस्ट्रीज, 65/525, मोतीलाल नगर, प्रथम तल, रोड सं. 1, साईनाथ रेस्टोरेंट के सामने, गोरेगांव पश्चिम, मुंबई-400104, महाराष्ट्र	बिजली के घरेलू खाद्य मिक्सर (द्रवीपरक और ग्राइन्डर)	भा.मा. 4250 : 1980

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

ए. एस. जामखिंडीकर, वैज्ञानिक 'एफ' एवं प्रमुख (एम डी एम III)

New Delhi, the 8th February, 2013

S.O. 443.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address (factory) of the party	Product	IS No/Part/Sec Year
1	2	3	4	5	6
1.	3902156	01/01/2013	Precision Electricals Ground Floor, Gala No. 3 & 4 Choudhary Internatinal Industrial Estate, Village Navghar Vasai (E) Distt. : Thane-401210, Maharashtra	Switches for domestic and similar purposes	IS 3854 : 1997
2.	3904362	03/01/2013	Milestone Industries Gala No. B-10, Tirupati Udyog Nagar Indl. Premises Co-op Society Ltd., Sativali Road, Village Valiv, Taluka Vasai-East Distt. : Thane-401208 Maharashtra	Domestic Electric food Mixers (liquidizes and grinders)	IS 4250 : 1980
3.	3906265	03/01/2013	Clik Home Appliances Ground Floor, Gala No. 5, Tirupati CHS Society, Makadwala Compound, Shivaji Nagar, Appa Pada Road, Malad (East) Mumbai-400097	Domestic Electric food Mixers (liquidizes and grinders)	IS 4250 : 1980
4.	3912563	03/01/2013	Cona Industries 28, Shrinath Ind. Estate, Sainath Co-op., Society, Off Mahakali Caves Road, Andheri East, Mumbai-400093	Switches for domestics and similar purposes	IS 3854 : 1997

1	2	3	4	5	6
5.	3912664	03/01/2013	Cona Industries 28, Shrinath Ind. Estate, Sainath Co-op., Society, Off Mahakali Caves Road, Andheri East, Mumbai-400093	Plugs and socket outlets of 250 volts and rates current up to 16 amperes	IS 1293 : 2005
6.	3912765	03/01/2013	Cona Industries 28, Shrinath Ind. Estate, Sainath Co-op., Society, Off Mahakali Caves Road, Andheri East, Mumbai-400093	Cieling roses-	IS 371 : 1999
7.	3906063	07/01/2013	Anchor Electricals Pvt. Ltd., 66/2, 66/3, 66/5, 67/1, 67/2, Patalia Road, Bhimpore, Nani Daman, Distt. : Daman UT of Daman & Diu-396210	Plugs and socket outlets of 250 volts and rated current upto 16 ampers	IS 1293 : 2005
8.	3906164	07/01/2013	Anchor Electricals Pvt. Ltd., 66/2, 66/3, 66/5, 67/1, 67/2, Patalia Road, Bhimpore, Nani Daman, Distt. : Daman, UT of Daman & Diu-396210	Electronic type fan regulators	IS 11037 : 1984
9.	3915064	22/01/2013	G-Nine Modular Pvt. Ltd., Force House, Bkt. Indl. Park, Sector B, Gauraipada, Near Varun Inds, Valiv Distt : Thane-401208, Maharrashtra	Plugs and socket outlets of 250 volts and rated current up to 16 amperes	IS 1293 : 2005
10.	3915165	22/01/2013	G-Nine Modular Pvt. Ltd., Force House, Bkt. Indl. Park, Sector B, Gauraipada, Near Varun Inds, Valiv Distt : Thane-401208, Maharrashtra	Switches for domestics and similar purposes	IS 3854 : 1997
11.	3913767	28/01/2013	Crompton Greaves Ltd., Machine IV Division 196, 197 and 198, Kundaim Industrial Estate, Kundaim North Goa, Goa-403115	Three-phase induction motors	IS 325 : 1996
12.	3914567	30/01/2013	Parshva Industries 65/525, Motilal Nagar, 1st Floor, Road No. 1, Opp. Saianth Restaurant Goregaon West, Mumbai-400104	Domestic electric food-mixers (liquidizes and grinders)	IS 4250 : 1980

[No. CMD/13 : 11]

A. S. JAMKHINDIKAR, Scientist 'F' & Head (MDM-III)

नई दिल्ली, 12 फरवरी, 2013

का. आ. 444.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :-

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 9295 : 1983 वाहक पट्टे हेतु आइडलरस के लिए इस्पात की नलियों की विशिष्टि (पहला पुनरीक्षण)	संशोधन संख्या 4 दिसम्बर, 2012	7 जनवरी, 2013

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरूवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : एमटीडी 19/टी-51]

पी. घोष, वैज्ञानिक 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 12th February, 2013

S. O. 444.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :—

SCHEDULE

Sl. No.	No. and Year of the Indian Standard(s) amendment(s)	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 9295 : 1983 Specification for Steel Tubes for Idlers for Belt Conveyors (*First Revision*)	Amendment No. 4 December 2012	07 January, 2013

Copy of the standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bengalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref. MTD 19/T-51]

P. GHOSH, Scientist 'F' & Head (Met. Engg.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 18 जनवरी, 2013

का. आ. 445.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रशासनिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रमों के निम्नलिखित कार्यालयों को, जिनके 80 या अधिक प्रतिशत कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :

आयल एण्ड नेचुरल गैस कार्पोरेशन लिमिटेड

(i) ओएनजीसी अकादमी, ओएनजीसी, कौलागढ़ रोड, देहरादून-248195

(ii) वेधन प्रौद्योगिकी संस्थान, ओएनजीसी, कौलागढ़ रोड, देहरादून-248195

(iii) केशव देव मालवीय पेट्रोलियम अन्वेषण संस्थान, ओएनजीसी, कौलागढ़ रोड, देहरादून-248195

(iv) जियोपिक ओएनजीसी संस्थान, कौलागढ़ रोड, देहरादून, उत्तराखंड-248195

इंडियन आयल कार्पोरेशन लिमिटेड

(i) इंडियन आयल कार्पोरेशन लिमिटेड (विपणन प्रभाग), अजमेर मंडल कार्यालय, ई-83, शास्त्री नगर, लोहगल रोड, अजमेर-305006 ।

(ii) इंडियन आयल कार्पोरेशन लिमिटेड (विपणन प्रभाग), लोनी एलपीजी संयंत्र, बन्थला-लोनी, गाजियाबाद, पिन-201102

(iii) इंडियन आयल कार्पोरेशन लिमिटेड (विपणन प्रभाग), इंडियन एयर फोर्स, जोधपुर एएफएस, जोधपुर, पिन-342011

[सं. 11011/1/2012 (हिन्दी)]

डी. एस. रावत, संयुक्त निदेशक (रा.भा.)

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 18th January, 2013

S.O. 445.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for official purpose of the Unoin) Rules, 1976, the Central Government hereby notifies the following offices of the Public Sector Undertakings under the administrative control of the Ministry of Petroleum and Natural Gas, in which 80 or more per cent of the staff have acquired working knowledge of Hindi :—

1. Oil and Natural Gas Corporation limited

(i) ONGC Academy, ONGC Kaulagarh Road, Dehradun-248195.

(ii) Institute of Drilling Technology, ONGC Kaulagarh Road, Dehradun-248195.

(iii) KDMIPE, ONGC Kaulagarh Road, Dehradun-248195.

(iv) GEOPIC, ONGC Kaulagarh Road, Dehradun-248195

2. Indian Oil Corporation Limited

(i) Indian Oil Corporation Limited (Marketing Division) Ajmer Division Office E-83, Shastri Nagar, Lohgal Road, Ajmer- 305006.

(ii) Indian Oil Corporation Limited (Marketing Division) Loni LPG Plant, Banthala-Loni, Ghaziabad, Pin-201102.

(iii) Indian Oil Corporation Limited (Marketing Division) Indian Air Force, Jodhpur AFS, Jodhpur, Pin-342011.

[No. 11011/1/2012 (Hindi)]

D. S. RAWAT, Jt. Director (OL)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 20 फरवरी, 2013

का.आ. 446.— केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि मे जो इस से उपाबद्व अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाऐ जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियॉ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एस.सी. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप – हल्दिया – दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप – हल्दिया – बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल–मौरी, मौरीग्राम हावड़ा–711 302 (पश्चिम बंगाल) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

पुलिस स्टेशन : डोमजुड जिला : हावड़ा राज्य : पश्चिम बंगाल					
क्रम सं.	मौजा का नाम	खसरा सं. (आर.एस.)	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मी.
1	2	3	4	5	6
1	आमड़े – 21	307	00	05	80
		301	00	04	30
		300	00	00	30
		299	00	03	90
2	अंकुरहाटी – 30	141	00	00	20
		142	00	02	90
		152	00	00	30
		151	00	02	50
		150	00	00	70
		154	00	02	20
		159	00	00	20
		146	00	02	70
		160	00	01	10
		163	00	03	30
		162	00	00	30
		169	00	02	40
		170	00	01	40
		173	00	00	20
		174	00	01	20
		176	00	00	90
		177	00	00	20
		184	00	00	70
		186	00	00	60
		185	00	00	40
		192	00	01	80
		193	00	00	20
		194	00	01	80
		196	00	01	00
		213	00	00	70
		212	00	00	20

1	2	3	4	5	6
	अंकुरहाटी – 30	197	00	01	50
	जारी.....	198	00	01	20
		199	00	01	90
		200	00	03	40
		202	00	01	00
		262	00	01	00
		104	00	00	30
		36	00	01	20
		356	00	01	90
		355	00	00	20
		324	00	01	10
		353	00	00	70
		347	00	00	40
		348	00	01	50
		349	00	02	30
		352	00	00	20
		350	00	00	50
		345	00	01	60
		343	00	00	90
		346	00	00	20
		341	00	00	90
		342	00	00	20
		339	00	00	90
		351	00	01	10
		338	00	02	20
		379	00	00	70
		336	00	00	20
		337	00	02	70
		380	00	00	20
		381	00	05	20
		382	00	01	90
		383	00	04	50
		388	00	03	40
		389	00	06	60

1	2	3	4	5	6
	अंकुरहाटी – 30	390	00	01	60
	जारी.....	391	00	01	30
		392	00	02	40
		393	00	02	20
		443	00	01	50
		442	00	02	40
		444	00	08	60
		470	00	07	30
		471	00	05	90
		480	00	01	40
		481	00	03	80
		491	00	07	50
		492	00	02	30
		490	00	01	00
		489	00	00	40
		521	00	01	80
		519	00	02	30
		518	00	08	90
		508	00	00	20
		509	00	01	60
		510	00	01	30
		511	00	01	60
		512	00	01	50
		513	00	01	30
		514	00	01	80
		516	00	00	20
		515	00	04	70
		507	00	00	90
		567	00	01	60
		568	00	00	30
		569	00	04	40
		570	00	01	40
		571	00	00	20
		588	00	02	50

1	2	3	4	5	6
	अंकुरहाटी – 30	589	00	00	90
	जारी.....	590	00	02	70
		591	00	00	20
		585	00	00	20
3	राघबपुर – 35	642	00	02	50
		741	00	00	30
		643	00	00	20
		737	00	08	30
		736	00	03	00
		649	00	00	20
		650	00	03	90
		2010	00	02	00
		651	00	00	80
		732	00	00	20
		653	00	07	40
		652	00	00	20
		657	00	04	50
		654	00	01	00
		655	00	00	20
		656	00	00	70
		658	00	04	50
		709	00	01	00
		708	00	01	40
		659	00	00	20
		706	00	04	00
		705	00	01	60
		704	00	05	10
		678	00	00	40
		703	00	00	60
		702	00	00	20
		679	00	03	00
		680	00	03	20
		687	00	02	90
		688	00	01	10

1	2	3	4	5	6
	राघबपुर – 35	681	00	02	40
	जारी.....	686	00	02	70
		691	00	00	20
		684	00	00	30
		685	00	02	60
		837	00	01	10
		836	00	02	10
		835	00	00	50
		898	00	00	50
		838	00	01	90
		840	00	04	20
		839	00	00	60
		841	00	01	90
		842	00	04	70
		844	00	00	60
		843	00	02	70
		848	00	00	30
		852	00	02	20
		519	00	03	00
		479	00	01	10
		480	00	01	00
		478	00	01	70
		476	00	01	30
		477	00	00	20
		481	00	01	10
		475	00	02	60
		470	00	00	40
		472	00	02	30
		471	00	02	20
		468	00	01	50
		467	00	05	20
		466	00	00	20
		318	00	05	90
		294	00	05	70

1	2	3	4	5	6
	राघबपुर – 35	295	00	00	20
	जारी.....	293	00	01	00
		292	00	01	50
		290	00	00	20
		289	00	00	20
		288	00	02	10
		287	00	02	60
		285	00	02	30
5	नार्ना – 40	3114	00	00	20
		3145	00	02	20
		3116	00	00	20
		3146	00	01	20
		3144	00	01	20
		3143	00	04	40
		3147	00	00	20
		3191	00	06	80
		3192	00	01	20
		3222	00	00	20
		3216	00	00	50
		3219	00	01	90
		3220	00	00	70
		3218	00	00	90
		3254	00	00	60
		3255	00	03	50
		3257	00	02	40
		3259	00	00	20
		3258	00	02	80
		3293	00	03	80
		3474	00	00	20
		3296	00	01	90
		3290	00	00	40
		3291	00	02	40
		3282	00	02	50
		3285	00	01	50

1	2	3	4	5	6
	नार्ना – 40	3283	00	03	50
	जारी.....	3421	00	00	40
		3420	00	02	20
		3419	00	01	30
		3437	00	02	80
		3438	00	05	30
		3442	00	01	80
		3446	00	00	30
		3444	00	00	20
		3443	00	01	70
		3450	00	01	70
		3462	00	01	20
		3461	00	00	70
		3460	00	00	70
		3463	00	00	20
		3466	00	01	60
		3465	00	03	80
		3468	00	00	70
		3469	00	01	90
		3471	00	02	20
		3472	00	00	20
		3470	00	00	20
		3473	00	01	90
		4304	00	00	70
		4236	00	04	20
		4215	00	03	40
		4216	00	02	40
		4219	00	03	10
		4221	00	00	30
		4218	00	02	70
		4650	00	00	20
		4626	00	00	20
		4733	00	00	20
		4185	00	00	90

1	2	3	4	5	6
	नार्ना – 40	4183	00	01	40
	जारी.....	4184	00	01	10
		4182	00	00	20
		4642	00	01	70
		4643	00	03	30
		4646	00	00	30
		4645	00	02	30
		4639	00	04	00
		4636	00	01	30
		4635	00	04	20
		4690	00	00	80
		4628	00	00	20
		4627	00	02	20
		4625	00	00	90
		4698	00	00	20
		4699	00	00	40
		4700	00	02	80
		4701	00	01	40
		4703	00	01	30
		4704	00	03	00
		4730	00	01	20
		4729	00	00	40
		4728	00	02	50
		4727	00	00	30
		4734	00	01	50
		4735	00	00	50
		4724	00	00	80
		4723	00	02	40
		4720	00	03	60
		4719	00	00	70
		4718	00	03	80
6	पूर्ब्बनओपाड़ा – 31	436	00	07	70
		437	00	05	60
		438/763	00	03	30

1	2	3	4	5	6
	पूर्ब्बनओपाड़ा – 31	438	00	07	90
	जारी.....	439	00	06	60
		423	00	03	10
		415	00	01	00
		416	00	01	30
		422	00	02	90
		417	00	01	60
		421	00	01	90
		418	00	02	70
		420	00	00	50
		419	00	03	80
		410	00	02	30
		409	00	02	40
		408	00	01	50
		407	00	01	20
		403	00	02	90
		401	00	00	80
		400	00	00	40
		397	00	00	40
		396	00	08	40
		395	00	00	20
		392	00	04	20
		390/747	00	03	20
		390	00	01	10
		389	00	01	50
		382	00	03	70
		388	00	04	40
		384	00	00	60
		383	00	06	50
		373	00	14	50
		374	00	04	50
		372	00	00	20
		159	00	01	50
		158	00	00	20

1	2	3	4	5	6
	पूर्ब्बनओपाडा – 31	154	00	01	80
	जारी.....	157	00	04	10
		94	00	13	70
		98	00	00	20
		93	00	00	20
		12	00	03	30
		13	00	10	50
		14/766	00	03	90
		94/768	00	00	20
		7	00	08	50
		5	00	04	10
		6	00	02	50
		14/770	00	04	80

[फा. सं. आर.-25011/17/2012-ओ.आर.-I]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 20th February, 2013

S.O. 446.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S.C.Sarkar, W.B.C.S (Exe.)Retd.Competent Authority Paradip – Haldia –Durgapur LPG Pipeline & Augmentation of Paradip – Haldia –Barauni Pipeline Project, P.O,Duillya, Andul - Mouri, Mourigram,Howrah, 711-302 (West Bengal)

SCHEDULE

P.S : DOMJUR DISTRICT : HOWRAH STATE : WEST BENGAL					
Sl. No.	Name of the Mouza	Khasra No. (R.S.)	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1	AMRE - 21	307	00	05	80
		301	00	04	30
		300	00	00	30
		299	00	03	90
2	ANKURHATI - 30	141	00	00	20
		142	00	02	90
		152	00	00	30
		151	00	02	50
		150	00	00	70
		154	00	02	20
		159	00	00	20
		146	00	02	70
		160	00	01	10
		163	00	03	30
		162	00	00	30
		169	00	02	40
		170	00	01	40
		173	00	00	20
		174	00	01	20
		176	00	00	90
		177	00	00	20
		184	00	00	70
		186	00	00	60
		185	00	00	40
		192	00	01	80
		193	00	00	20
		194	00	01	80
		196	00	01	00
		213	00	00	70
		212	00	00	20

1	2	3	4	5	6
	ANKURHATI - 30	197	00	01	50
	Contd.....	198	00	01	20
		199	00	01	90
		200	00	03	40
		202	00	01	00
		262	00	01	00
		104	00	00	30
		36	00	01	20
		356	00	01	90
		355	00	00	20
		324	00	01	10
		353	00	00	70
		347	00	00	40
		348	00	01	50
		349	00	02	30
		352	00	00	20
		350	00	00	50
		345	00	01	60
		343	00	00	90
		346	00	00	20
		341	00	00	90
		342	00	00	20
		339	00	00	90
		351	00	01	10
		338	00	02	20
		379	00	00	70
		336	00	00	20
		337	00	02	70
		380	00	00	20
		381	00	05	20
		382	00	01	90
		383	00	04	50
		388	00	03	40
		389	00	06	60

1	2	3	4	5	6
	ANKURHATI - 30	390	00	01	60
	Contd.....	391	00	01	30
		392	00	02	40
		393	00	02	20
		443	00	01	50
		442	00	02	40
		444	00	08	60
		470	00	07	30
		471	00	05	90
		480	00	01	40
		481	00	03	80
		491	00	07	50
		492	00	02	30
		490	00	01	00
		489	00	00	40
		521	00	01	80
		519	00	02	30
		518	00	08	90
		508	00	00	20
		509	00	01	60
		510	00	01	30
		511	00	01	60
		512	00	01	50
		513	00	01	30
		514	00	01	80
		516	00	00	20
		515	00	04	70
		507	00	00	90
		567	00	01	60
		568	00	00	30
		569	00	04	40
		570	00	01	40
		571	00	00	20
		588	00	02	50

1	2	3	4	5	6
	ANKURHATI - 30	589	00	00	90
	Contd.....	590	00	02	70
		591	00	00	20
		585	00	00	20
3	RAGHABPUR - 35	642	00	02	50
		741	00	00	30
		643	00	00	20
		737	00	08	30
		736	00	03	00
		649	00	00	20
		650	00	03	90
		2010	00	02	00
		651	00	00	80
		732	00	00	20
		653	00	07	40
		652	00	00	20
		657	00	04	50
		654	00	01	00
		655	00	00	20
		656	00	00	70
		658	00	04	50
		709	00	01	00
		708	00	01	40
		659	00	00	20
		706	00	04	00
		705	00	01	60
		704	00	05	10
		678	00	00	40
		703	00	00	60
		702	00	00	20
		679	00	03	00
		680	00	03	20
		687	00	02	90
		688	00	01	10

1	2	3	4	5	6
	RAGHABPUR - 35	681	00	02	40
	Contd.....	686	00	02	70
		691	00	00	20
		684	00	00	30
		685	00	02	60
		837	00	01	10
		836	00	02	10
		835	00	00	50
		898	00	00	50
		838	00	01	90
		840	00	04	20
		839	00	00	60
		841	00	01	90
		842	00	04	70
		844	00	00	60
		843	00	02	70
		848	00	00	30
		852	00	02	20
		519	00	03	00
		479	00	01	10
		480	00	01	00
		478	00	01	70
		476	00	01	30
		477	00	00	20
		481	00	01	10
		475	00	02	60
		470	00	00	40
		472	00	02	30
		471	00	02	20
		468	00	01	50
		467	00	05	20
		466	00	00	20
		318	00	05	90
		294	00	05	70

1	2	3	4	5	6
	RAGHABPUR - 35	295	00	00	20
	Contd.....	293	00	01	00
		292	00	01	50
		290	00	00	20
		289	00	00	20
		288	00	02	10
		287	00	02	60
		285	00	02	30
4	NARNA - 40	3114	00	00	20
		3145	00	02	20
		3116	00	00	20
		3146	00	01	20
		3144	00	01	20
		3143	00	04	40
		3147	00	00	20
		3191	00	06	80
		3192	00	01	20
		3222	00	00	20
		3216	00	00	50
		3219	00	01	90
		3220	00	00	70
		3218	00	00	90
		3254	00	00	60
		3255	00	03	50
		3257	00	02	40
		3259	00	00	20
		3258	00	02	80
		3293	00	03	80
		3474	00	00	20
		3296	00	01	90
		3290	00	00	40
		3291	00	02	40
		3282	00	02	50
		3285	00	01	50

1	2	3	4	5	6
	NARNA - 40	3283	00	03	50
	Contd.....	3421	00	00	40
		3420	00	02	20
		3419	00	01	30
		3437	00	02	80
		3438	00	05	30
		3442	00	01	80
		3446	00	00	30
		3444	00	00	20
		3443	00	01	70
		3450	00	01	70
		3462	00	01	20
		3461	00	00	70
		3460	00	00	70
		3463	00	00	20
		3466	00	01	60
		3465	00	03	80
		3468	00	00	70
		3469	00	01	90
		3471	00	02	20
		3472	00	00	20
		3470	00	00	20
		3473	00	01	90
		4304	00	00	70
		4236	00	04	20
		4215	00	03	40
		4216	00	02	40
		4219	00	03	10
		4221	00	00	30
		4218	00	02	70
		4650	00	00	20
		4626	00	00	20
		4733	00	00	20
		4185	00	00	90

1	2	3	4	5	6
	NARNA - 40	4183	00	01	40
	Contd.....	4184	00	01	10
		4182	00	00	20
		4642	00	01	70
		4643	00	03	30
		4646	00	00	30
		4645	00	02	30
		4639	00	04	00
		4636	00	01	30
		4635	00	04	20
		4690	00	00	80
		4628	00	00	20
		4627	00	02	20
		4625	00	00	90
		4698	00	00	20
		4699	00	00	40
		4700	00	02	80
		4701	00	01	40
		4703	00	01	30
		4704	00	03	00
		4730	00	01	20
		4729	00	00	40
		4728	00	02	50
		4727	00	00	30
		4734	00	01	50
		4735	00	00	50
		4724	00	00	80
		4723	00	02	40
		4720	00	03	60
		4719	00	00	70
		4718	00	03	80
5	PURBBA NAOPARA - 31	436	00	07	70
		437	00	05	60
		438/763	00	03	30

1	2	3	4	5	6
	PURBBA NAOPARA - 31	438	00	07	90
	Contd.....	439	00	06	60
		423	00	03	10
		415	00	01	00
		416	00	01	30
		422	00	02	90
		417	00	01	60
		421	00	01	90
		418	00	02	70
		420	00	00	50
		419	00	03	80
		410	00	02	30
		409	00	02	40
		408	00	01	50
		407	00	01	20
		403	00	02	90
		401	00	00	80
		400	00	00	40
		397	00	00	40
		396	00	08	40
		395	00	00	20
		392	00	04	20
		390/747	00	03	20
		390	00	01	10
		389	00	01	50
		382	00	03	70
		388	00	04	40
		384	00	00	60
		383	00	06	50
		373	00	14	50
		374	00	04	50
		372	00	00	20
		159	00	01	50
		158	00	00	20

1	2	3	4	5	6
	PURBBA NAOPARA - 31	154	00	01	80
	Contd.....	157	00	04	10
		94	00	13	70
		98	00	00	20
		93	00	00	20
		12	00	03	30
		13	00	10	50
		14/766	00	03	90
		94/768	00	00	20
		07	00	08	50
		05	00	04	10
		06	00	02	50
		14/770	00	04	80

[F. No. R-25011/17/2012-O.R.-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 20 फरवरी, 2013

का.आ. 447.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उडीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि मे जो इस से उपाबद्व अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाऐ जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्व है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एस.सी. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप – हल्दिया – दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप – हल्दिया – बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल–मौरी, मौरीग्राम हावड़ा–711 302 (पश्चिम बंगाल) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

पुलिस स्टेशन : डोमजुड		जिला : हावड़ा	राज्य : पश्चिम बंगाल		
क्रम सं.	मौजा का नाम	खसरा सं. (एल.आर.)	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मी.
1	2	3	4	5	6
1	नानी -- 40	1487	00	00	20
		1486	00	02	40
		1485	00	01	60

[फा. सं. आर.-25011/17/2012-ओ.आर.-I]

पवन कुमार, अवर सचिव

New Delhi, the 20th February, 2013

S.O. 447.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S.C.Sarkar, W.B.C.S (Exe.)Retd.Competent Authority Paradip – Haldia –Durgapur LPG Pipeline & Augmentation of Paradip – Haldia –Barauni Pipeline Project, P.O.Duillya, Andul - Mouri, Mourigram,Howrah, 711-302 (West Bengal)

SCHEDULE

P.S : DOMJUR DISTRICT : HOWRAH STATE : WEST BENGAL					
Sl. No.	Name of the Mouza	Khasra No. (L.R.)	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1	NARNIA - 40	1487	00	00	20
		1486	00	02	40
		1485	00	01	60

[F. No. R-25011/17/2012-O.R.-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली. 20 फरवरी, 2013

का.आ. 448.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि मे जो इस से उपाबद्व अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाऐ जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियॉ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एस.सी. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप – हल्दिया – दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप – हल्दिया – बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल–मौरी, मौरीग्राम हावड़ा–711 302 (पश्चिम बंगाल) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

पुलिस स्टेशन : नन्दकुमार		जिला : पूर्व मेदिनीपुर	राज्य : पश्चिम बंगाल		
क्रम सं.	मौजा का नाम	खसरा सं.	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मी.
1	2	3	4	5	6
1	नाइकुन्डि – 117	7	00	01	60
		1	00	03	50
		1/865	00	00	20
		2	00	01	30
		414	00	00	60
		420	00	00	70
		421	00	02	80
		422	00	00	70
		429	00	03	70
		428	00	03	70
		427	00	00	20
		434	00	03	10
		435	00	02	80
		439	00	02	40
		459	00	01	70
		859	00	00	90
		458	00	00	20
		820	00	03	20
		820/947	00	00	50
		822	00	00	60
		825	00	02	40
		827	00	01	70
		825/946	00	00	20
2	बागमारी – 101	531	00	02	30
		509	00	02	30
		514	00	03	60
		515	00	01	00
		516	00	01	70
		517	00	02	60
		518	00	00	60
		489	00	01	10
		490	00	00	20
		488	00	04	00
		238	00	01	50
		487	00	01	10

1	2	3	4	5	6
	बागमारी – 101	239	00	03	20
	जारी.....	236	00	02	20
		235	00	02	50
		229	00	01	60
		230 / 612	00	01	00
		230	00	01	20
		231	00	04	60
		232	00	00	60
		232 / 613	00	00	40
		201	00	01	80
		198	00	00	80
		199	00	01	80
		192	00	05	00
		191	00	00	20
		174	00	02	90
		173	00	00	40
		171	00	01	40
		171 / 610	00	04	10
		177	00	00	20
		170	00	01	60
		169	00	01	10
		168	00	02	90
		166	00	00	20
		109	00	00	30
		103	00	04	40
		102	00	01	40
		101	00	01	30
		55	00	02	80
		56	00	02	40
		48	00	00	20
		57	00	02	00
		58	00	01	10
		59	00	00	30
		47	00	03	60
		32	00	02	30
		33	00	00	40
		23	00	05	00
		26	00	00	20
		24	00	01	60

1	2	3	4	5	6
	बागमारी – 101	21	00	03	40
	जारी....	19	00	01	50
		18	00	00	20
		20	00	01	60
3	कोलसर – 33	1015	00	01	70
		1018	00	02	40
		1019	00	02	20
		1017	00	00	60
		1024	00	00	30
		1023	00	00	20
		1025	00	02	20
		1028	00	00	40
		1027	00	00	90
		1030	00	01	30
		1031	00	01	40
		1034	00	03	50
		864	00	01	00
		1035	00	02	40
		846	00	02	70
		847	00	01	70
		848	00	00	40
		857	00	00	20
		858	00	00	30
		855	00	07	00
		851	00	05	20
		850	00	02	30
		696	00	04	00
		852	00	00	30
		698	00	02	50
		697	00	04	40
		699	00	03	00
		694	00	01	80
		794	00	07	50
		793	00	01	30
		791	00	04	60
4	नाड़ादाड़ी – 44	1494	00	02	50
		1464	00	02	50
		1463	00	00	20
		1460	00	03	00

1	2	3	4	5	6
	नाड़ादाड़ी – 44	1446	00	00	90
	जारी.....	1447	00	01	20
		1441	00	00	60
		1442	00	01	40
		1433	00	05	30
		1440	00	01	50
		1440 / 1771	00	00	20
		1431	00	02	00
		1353	00	00	20
		1430	00	02	70
		1413	00	00	20
		1429	00	01	20
		1428	00	01	60
		1427	00	02	60
		1426	00	00	20
		1362	00	00	60
		1425	00	02	20
		1363	00	00	20
		1364	00	01	50
		1380	00	03	50
		1381	00	00	20
		1364 / 1707	00	00	70
		1375	00	00	20
		1370	00	00	60
		1374	00	01	50
		1371	00	01	30
		1320	00	00	20
		1321	00	00	20
5	कल्यानपुर – 125	2236	00	00	60
		2237	00	02	80
		2235	00	01	00
		2233	00	06	00
		2239	00	00	70
		2240	00	01	10
		2177	00	06	60
		2180	00	00	60
		2179	00	02	70
		2178	00	01	90
		2173	00	00	70

1	2	3	4	5	6
	कल्यानपुर – 125	2172	00	01	60
	जारी	2171	00	00	20
		2166	00	04	70
		2305	00	03	80
		2308	00	03	00
		2312	00	03	30
		2311	00	01	50
		2329	00	00	40
		2335	00	03	30
		2334	00	01	00
		2333	00	03	00
		2332	00	01	10
		2387	00	01	00
		2388	00	01	30
		2379	00	00	40
		2392	00	03	40
		2378	00	02	20
		2396	00	00	20
		2397	00	00	50
		2398	00	01	60
		2399	00	02	40
		2400	00	01	50
		2401	00	00	70
		2415	00	02	70
		2416	00	00	40
		2414	00	02	10
		2418	00	00	20
		2413	00	02	00
		2412	00	00	80
		2422	00	02	50
		2423	00	02	40
		1440	00	00	30
		1439	00	01	50
		1438	00	04	90
		1442	00	00	20
		1498	00	02	70
		1499	00	01	60
		1432	00	00	50
		1431	00	04	40

1	2	3	4	5	6
	कल्यानपुर – 125	1430	00	00	20
	जारी.....	1505	00	00	60
		1506	00	02	10
		1508	00	00	50
		1510	00	00	20
		1514	00	01	20
		1513	00	00	70
		1512	00	00	60
		1511	00	02	40
		1544	00	02	80
		1545	00	00	70
		1547	00	02	00
		1549	00	00	20
		1546	00	01	90
		1548	00	02	90
		1563	00	08	50
		1695	00	00	60
		1562	00	00	90
		1564	00	00	80
		1565	00	05	80
		1574	00	03	00
		1382	00	01	40
		684	00	00	20
		685	00	01	00
		683	00	04	60
		691	00	05	90
		671	00	04	10
		670	00	01	10
		524	00	01	70
		525	00	01	40
		523	00	03	30
		526	00	00	90
		527	00	01	10
		530	00	01	60
		531	00	00	80
		532	00	01	90
		535	00	00	20
		533	00	01	70
		534	00	03	00

1	2	3	4	5	6
	कल्यानपुर -- 125	536	00	02	60
	जारी....	420	00	03	50
		421	00	05	40
		422	00	00	40
		419	00	03	10
		396	00	01	90
		397	00	00	30
		417	00	02	50
		415	00	02	20
		416	00	04	60
6	माधवपुर – 122	202	00	02	80
		203/3082	00	03	90
		213	00	00	20
		214	00	00	20
		215	00	00	20
		216	00	00	20
		220	00	04	40
		210	00	03	60
		221	00	03	70
		223/3094	00	01	00
		223	00	00	30
		222	00	03	30
		249	00	01	90
		248	00	02	70
		250	00	06	70
		257	00	06	50
		244	00	00	30
		300	00	03	00
		301	00	04	00
		302	00	04	30
		373	00	00	40
		238	00	00	20
		309	00	01	80
		306	00	01	00
		308	00	00	30
		307	00	01	20
		307/3067	00	02	50
		339	00	02	10
		340	00	02	70

1	2	3	4	5	6
	माधवपुर – 122	342	00	03	40
	जारी.....	341	00	00	40
		372	00	00	40
		374 / 3095	00	01	80
		374	00	02	40
		375	00	01	40
		375 / 3096	00	01	60
		378	00	03	60
		376	00	01	80
		377	00	00	90
		379	00	09	80
		382	00	05	20
		385	00	03	10
7	सन्दलपुर – 121	1018	00	04	10
		1019	00	02	40
		1024	00	02	20
		1020	00	00	20
		1023	00	04	50
		1022	00	00	40
		1055	00	01	80
		1057	00	03	70
		1056	00	00	50
		1063	00	03	80
		1062	00	01	10
		1064	00	05	70
		1066	00	01	60
		1067	00	01	20
		1068	00	00	20
		1069	00	03	00
		1227	00	00	20
		1228	00	08	10
		1229	00	01	00
		1230	00	00	20
		1232	00	03	00
		1235	00	07	70
		1237	00	02	60
		1238	00	01	80
		1239	00	02	30
		1297	00	01	90

1	2	3	4	5	6
	सन्दलपुर – 121 जारी.....	1296	00	01	90
		1300	00	04	60
		1301	00	04	90
		1309	00	00	80
		1310	00	00	90
		1859	00	00	50
		1447	00	00	70
		1448	00	01	20
		1449	00	03	70
		1437	00	03	40
		1435	00	03	00
		1427	00	02	20
		1428	00	00	50
		1426	00	01	20
		1422	00	02	00
		1701	00	00	90
		1700	00	00	90
		1699	00	00	90
		1474	00	01	00
		1475	00	01	00
		1418	00	00	30
		1417	00	09	10
		1416	00	04	60
		1408	00	04	70
		1409	00	00	60
		1407	00	03	20
		1697	00	06	60
		1698	00	01	50
		1703	00	00	60
		1704	00	00	60
		1705	00	00	60
		1828	00	07	50
		1823	00	03	10
		1822	00	08	50
		1833	00	00	20
		1834	00	00	20
		1837	00	07	50
		1842	00	01	10
		1850	00	01	00

1	2	3	4	5	6
	सन्दलपुर – 121	1849	00	02	00
	जारी.....	1848	00	00	70
		1854	00	01	30
		1855	00	00	70
		1847	00	02	00
		1857	00	00	70
8	भवानीपुर – 73	2269	00	04	10
		2271	00	02	60
		1833	00	00	30
		1832	00	00	40
		1834	00	08	80
		1842	00	00	60
		1837	00	00	80
		1836	00	02	80
		1838	00	03	60
		1839	00	00	70
		1804	00	07	10
		1815	00	03	70
		1806	00	10	70
		1805	00	00	80
		1808	00	04	00
		1807	00	00	50
		1809	00	03	80
		1811	00	10	40
		1814	00	08	90
		1816	00	04	60
		1824	00	02	20
		1825	00	02	00

[फा. सं. आर.-25011/24/2012-ओ.आर.-I]

पवन कुमार, अवर सचिव

New Delhi, the 20th February, 2013

S.O. 448.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S.C.Sarkar, W.B.C.S (Exe.)Retd.Competent Authority Paradip – Haldia –Durgapur LPG Pipeline & Augmentation of Paradip – Haldia –Barauni Pipeline Project, P.O,Duillya, Andul - Mouri, Mourigram,Howrah, 711-302 (West Bengal)

SCHEDULE

P S: NANDAKUMAR DISTRICT : PURBA MEDINIPUR STATE : WEST BENGAL					
Sl. No.	Name of the Mouza	Khasra No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1	NAIKUNDI - 117	7	00	01	60
		1	00	03	50
		1/865	00	00	20
		2	00	01	30
		414	00	00	60
		420	00	00	70
		421	00	02	80
		422	00	00	70
		429	00	03	70
		428	00	03	70
		427	00	00	20
		434	00	03	10
		435	00	02	80
		439	00	02	40
		459	00	01	70
		859	00	00	90
		458	00	00	20
		820	00	03	20
		820/947	00	00	50
		822	00	00	60
		825	00	02	40
		827	00	01	70
		825/946	00	00	20
2	BAGMARI - 101	531	00	02	30
		509	00	02	30
		514	00	03	60
		515	00	01	00
		516	00	01	70
		517	00	02	60
		518	00	00	60
		489	00	01	10
		490	00	00	20
		488	00	04	00
		238	00	01	50
		487	00	01	10

1	2	3	4	5	6
	BAGMARI - 101	239	00	03	20
	Contd.. ...	236	00	02	20
		235	00	02	50
		229	00	01	60
		230/612	00	01	00
		230	00	01	20
		231	00	04	60
		232	00	00	60
		232/613	00	00	40
		201	00	01	80
		198	00	00	80
		199	00	01	80
		192	00	05	00
		191	00	00	20
		174	00	02	90
		173	00	00	40
		171	00	01	40
		171/610	00	04	10
		177	00	00	20
		170	00	01	60
		169	00	01	10
		168	00	02	90
		166	00	00	20
		109	00	00	30
		103	00	04	40
		102	00	01	40
		101	00	01	30
		55	00	02	80
		56	00	02	40
		48	00	00	20
		57	00	02	00
		58	00	01	10
		59	00	00	30
		47	00	03	60
		32	00	02	30
		33	00	00	40
		23	00	05	00
		26	00	00	20
		24	00	01	60

1	2	3	4	5	6
	BAGMARI - 101	21	00	03	40
	Contd.....	19	00	01	50
		18	00	00	20
		20	00	01	60
3	KOLSAR - 88	1015	00	01	70
		1018	00	02	40
		1019	00	02	20
		1017	00	00	60
		1024	00	00	30
		1023	00	00	20
		1025	00	02	20
		1028	00	00	40
		1027	00	00	90
		1030	00	01	30
		1031	00	01	40
		1034	00	03	50
		864	00	01	00
		1035	00	02	40
		846	00	02	70
		847	00	01	70
		848	00	00	40
		857	00	00	20
		858	00	00	30
		855	00	07	00
		851	00	05	20
		850	00	02	30
		696	00	04	00
		852	00	00	30
		698	00	02	50
		697	00	04	40
		699	00	03	00
		694	00	01	80
		794	00	07	50
		793	00	01	30
		791	00	04	60
4	NARADARI - 44	1494	00	02	50
		1464	00	02	50
		1463	00	00	20
		1460	00	03	00

1	2	3	4	5	6
	NARADARI - 44	1446	00	00	90
	Contd.....	1447	00	01	20
		1441	00	00	60
		1442	00	01	40
		1433	00	05	30
		1440	00	01	50
		1440/1771	00	00	20
		1431	00	02	00
		1353	00	00	20
		1430	00	02	70
		1413	00	00	20
		1429	00	01	20
		1428	00	01	60
		1427	00	02	60
		1426	00	00	20
		1362	00	00	60
		1425	00	02	20
		1363	00	00	20
		1364	00	01	50
		1380	00	03	50
		1381	00	00	20
		1364/1707	00	00	70
		1375	00	00	20
		1370	00	00	60
		1374	00	01	50
		1371	00	01	30
		1320	00	00	20
		1321	00	00	20
5	KALYANPUR - 125	2236	00	00	60
		2237	00	02	80
		2235	00	01	00
		2233	00	06	00
		2239	00	00	70
		2240	00	01	10
		2177	00	06	60
		2180	00	00	60
		2179	00	02	70
		2178	00	01	90
		2173	00	00	70

1	2	3	4	5	6
	KALYANPUR - 125	2172	00	01	60
	Contd ...	2171	00	00	20
		2166	00	04	70
		2305	00	03	80
		2308	00	03	00
		2312	00	03	30
		2311	00	01	50
		2329	00	00	40
		2335	00	03	30
		2334	00	01	00
		2333	00	03	00
		2332	00	01	10
		2387	00	01	00
		2388	00	01	30
		2379	00	00	40
		2392	00	03	40
		2378	00	02	20
		2396	00	00	20
		2397	00	00	50
		2398	00	01	60
		2399	00	02	40
		2400	00	01	50
		2401	00	00	70
		2415	00	02	70
		2416	00	00	40
		2414	00	02	10
		2418	00	00	20
		2413	00	02	00
		2412	00	00	80
		2422	00	02	50
		2423	00	02	40
		1440	00	00	30
		1439	00	01	50
		1438	00	04	90
		1442	00	00	20
		1498	00	02	70
		1499	00	01	60
		1432	00	00	50
		1431	00	04	40

1	2	3	4	5	6
	KALYANPUR - 125	1430	00	00	20
	Contd	1505	00	00	60
		1506	00	02	10
		1508	00	00	50
		1510	00	00	20
		1514	00	01	20
		1513	00	00	70
		1512	00	00	60
		1511	00	02	40
		1544	00	02	30
		1545	00	00	70
		1547	00	02	00
		1549	00	00	20
		1546	00	01	90
		1548	00	02	90
		1563	00	08	50
		1695	00	00	20
		1562	00	00	90
		1564	00	00	50
		1565	00	05	30
		1574	00	03	00
		1382	00	01	40
		684	00	00	20
		685	00	01	00
		683	00	04	60
		691	00	05	90
		671	00	04	10
		670	00	01	10
		524	00	01	70
		525	00	01	40
		523	00	03	30
		526	00	00	90
		527	00	01	10
		530	00	01	60
		531	00	00	80
		532	00	01	90
		535	00	00	20
		533	00	01	70
		534	00	03	00

1	2	3	4	5	6
	KALYANPUR - 125	536	00	02	60
	Contd.. ..	420	00	03	50
		421	00	05	40
		422	00	00	40
		419	00	03	10
		396	00	01	90
		397	00	00	30
		417	00	02	50
		415	00	02	20
		416	00	04	60
6	MADHABPUR - 122	202	00	02	80
		203/3082	00	03	90
		213	00	00	20
		214	00	00	20
		215	00	00	20
		216	00	00	20
		220	00	04	40
		210	00	03	60
		221	00	03	70
		223/3094	00	01	00
		223	00	00	30
		222	00	03	30
		249	00	01	90
		248	00	02	70
		250	00	06	70
		257	00	06	50
		244	00	00	30
		300	00	03	00
		301	00	04	00
		302	00	04	30
		373	00	00	40
		238	00	00	20
		309	00	01	80
		306	00	01	00
		308	00	00	30
		307	00	01	20
		307/3067	00	02	50
		339	00	02	10
		340	00	02	70

1	2	3	4	5	6
	MADHABPUR - 122	342	00	03	40
	Contd.....	341	00	00	40
		372	00	00	40
		374/3095	00	01	80
		374	00	02	40
		375	00	01	40
		375/3096	00	01	60
		378	00	03	60
		376	00	01	80
		377	00	00	90
		379	00	09	80
		382	00	05	20
		385	00	03	10
7	SANDALPUR - 121	1018	00	04	10
		1019	00	02	40
		1024	00	02	20
		1020	00	00	20
		1023	00	04	50
		1022	00	00	40
		1055	00	01	80
		1057	00	03	70
		1056	00	00	50
		1063	00	03	80
		1062	00	01	10
		1064	00	05	70
		1066	00	01	60
		1067	00	01	20
		1068	00	00	20
		1069	00	03	00
		1227	00	00	20
		1228	00	08	10
		1229	00	01	00
		1230	00	00	20
		1232	00	03	00
		1235	00	07	70
		1237	00	02	60
		1238	00	01	80
		1239	00	02	30
		1297	00	01	90

1	2	3	4	5	6
	SANDALPUR - 121	1296	00	01	90
	Contd.....	1300	00	04	60
		1301	00	04	90
		1309	00	00	80
		1310	00	00	90
		1859	00	00	50
		1447	00	00	70
		1448	00	01	20
		1449	00	03	70
		1437	00	03	40
		1435	00	03	00
		1427	00	02	20
		1428	00	00	50
		1426	00	01	20
		1422	00	02	00
		1701	00	00	90
		1700	00	00	90
		1699	00	00	90
		1474	00	01	00
		1475	00	01	00
		1418	00	00	30
		1417	00	09	10
		1412	00	04	60
		1408	00	04	70
		1409	00	00	60
		1407	00	03	20
		1697	00	06	60
		1698	00	01	50
		1703	00	00	60
		1704	00	00	60
		1705	00	00	60
		1828	00	07	50
		1823	00	03	10
		1822	00	08	50
		1833	00	00	20
		1834	00	00	20
		1837	00	07	50
		1842	00	01	10
		1850	00	01	00

1	2	3	4	5	6
	SANDALPUR - 121	1849	00	02	00
	Contd.....	1848	00	00	70
		1854	00	01	30
		1855	00	00	70
		1847	00	02	00
		1857	00	00	70
8	BHABANIPUR - 73	2269	00	04	10
		2271	00	02	60
		1833	00	00	30
		1832	00	00	40
		1834	00	08	80
		1842	00	00	60
		1837	00	00	80
		1836	00	02	80
		1838	00	03	60
		1839	00	00	70
		1804	00	07	10
		1815	00	03	70
		1806	00	10	70
		1805	00	00	80
		1808	00	04	00
		1807	00	00	50
		1809	00	03	80
		1811	00	10	40
		1814	00	08	90
		1816	00	04	60
		1824	00	02	20
		1825	00	02	00

[F. No. R-25011/24/2012-O.R.-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 20 फरवरी, 2013

का.आ. 449.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उड़ीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि मे जो इस से उपाबद्व अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाऐ जाने का प्रस्ताव है, उपयोग कै अधिकार का अर्जन किया जाए ;

अत: अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियॉ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एस.सी. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप – हल्दिया – दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप – हल्दिया – बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल–मौरी, मौरीग्राम हावड़ा–711 302 (पश्चिम बंगाल) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

पुलिस स्टेशन : नन्दकुमार		जिला : पूर्व मेदिनीपुर	राज्य : पश्चिम बंगाल		
क्रम सं.	मौजा का नाम	खसरा सं. (आर.एस.)	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मी.
1	2	3	4	5	6
1	माधवपुर – 122	2296	00	04	40
		2297	00	02	00
		2295	00	00	90
		2299	00	02	00
		2307	00	06	30
		2311	00	04	80
		2310	00	00	20
		2327	00	01	40
		2325	00	00	20
		2326	00	04	60
		2328 / 3066	00	06	20
		2329	00	03	30
		2284	00	04	50
		2285	00	01	60
		2278	00	04	30
		2277	00	01	50
		2279	00	00	30
		2276	00	01	80
		2275	00	02	40
		2280	00	00	20
		3188	00	01	70
		2272	00	00	30
		2273	00	01	10
		2274	00	03	10
		1247	00	04	60
		1246	00	00	40
		1245	00	01	60
		1243 / 3079	00	00	20
		1243	00	01	00
		1242	00	02	40

1	2	3	4	5	6
	गाधवपुर – 122	1241	00	00	20
	जारी...	2255	00	02	20
		1271	00	01	30
		1270	00	00	20
		1272	00	00	20
		1174	00	00	20
		1275	00	02	10
		1274	00	02	30
		1278	00	06	90
		1286	00	02	00
		1285	00	03	20
		3178	00	01	60
		1224	00	04	70
		1220	00	00	20
		1221	00	01	80
		1222	00	01	70
		1214	00	02	10
		1212	00	02	20
		1207	00	00	20
		1206	00	01	90
		1205	00	01	70
		1204	00	00	20
		1203	00	04	70
		1202	00	04	70
		1188	00	02	10
		1187	00	00	80
		1186	00	01	20
		1185	00	02	30
		1213 / 3073	00	01	80
		1176	00	02	80
		1175	00	04	40
		1171	00	00	80
		1170	00	05	90
2	कुमरंआड़ा – 118	1335	00	00	80

1	2	3	4	5	6
	कुमरआड़ा – 118	1286	00	03	10
	जारी.....	1334	00	03	80
		1330	00	01	80
		1332	00	01	00
		1333	00	00	20
		1331	00	01	40
		1363	00	02	10
		1363 / 2061	00	02	80
		1324	00	00	30
		1311	00	03	80
		1313	00	00	20
		1312	00	00	90
		1310	00	01	90
		1302	00	01	30
		1301	00	00	50
		1303	00	01	70
		1304	00	01	00
		1297	00	02	90
		1296	00	06	40
		1294	00	01	70
		1295	00	03	90
		1288 / 729	00	02	20
		1293	00	00	20
		1292	00	00	20
		1290	00	02	50
		1289	00	01	40
		1287	00	08	40
		1288	00	00	20
		1285	00	00	20
		1284	00	00	30
		926	00	00	40
		969	00	01	10
		968	00	01	10
		973	00	03	00

1	2	3	4	5	6
	कुमरआड़ा – 118	999	00	09	00
	जारी....	995	00	01	50
		996	00	00	20
		1032	00	04	80
		1033	00	05	20
		1035	00	00	20
		1034	00	04	80
		1038 / 1919	00	00	40
		1038	00	01	30
		1039	00	00	40
		1070	00	01	20
		1050	00	02	70
		1049	00	00	20
		1048	00	02	30
		1047	00	00	60
		1046	00	00	20
		1052	00	01	10
		1054	00	03	40
		1055	00	03	50
		878 / 2159	00	01	10
		878	00	00	30
		864	00	01	90
		865	00	01	40
		863	00	01	50
		862	00	00	80
		861	00	01	30
		866	00	00	20
		848	00	04	60
		847	00	03	50
3	धिताइबशान – 100	214	00	00	20
		210	00	05	40
		212	00	01	10
		211	00	02	80
		242	00	00	40

1	2	3	4	5	6
	धिताइबशान – 100	243	00	03	00
	जारी....	204	00	02	40
		203	00	01	00
		244	00	00	20
		245	00	01	30
		200	00	03	30
		198	00	00	50
		199	00	02	00
		181	00	09	60
4	मान्दारगेछया – 90	1401	00	05	50
		1402	00	00	20
		1392	00	00	20
		1393	00	02	20
		1394	00	02	10
		1388	00	00	90
		1395	00	00	20
		1382	00	01	60
		1383	00	01	50
		1337	00	01	40
		1245	00	03	50
		1246	00	01	40
		1244	00	02	90
		1240	00	04	30
		1241	00	01	90
		1239	00	03	80
		1236	00	01	30
		1237	00	01	80
		1235	00	00	80
		1231	00	01	30
		1233	00	00	80
		1154	00	03	70
		1155	00	00	20
5	जम्बुरबशान – 87	790	00	00	70
		791	00	00	20

1	2	3	4	5	6
	जम्बुरबशान — 87	789	00	00	20
	जारी....	788	00	01	00
		787	00	01	00
		786	00	00	20
		778	00	02	20
		779	00	00	60
		777	00	01	30
		775	00	00	50
		774	00	00	50
		774 / 1406	00	03	80
		743	00	02	00
		742	00	01	10
		741	00	01	30
		740	00	02	30
		749	00	00	70
		739 / 1398	00	00	20
		737	00	05	70
		736	00	02	10
		735	00	00	30
		726	00	01	20
		771	00	00	20
		727	00	04	00
		725	00	00	20
		728	00	00	20
		729	00	00	20
		721	00	00	20
		722	00	02	50
		723	00	00	20
6	दक्षिण श्रीकृष्णपुर — 59	881	00	00	70
		882	00	00	20
		879	00	05	30
		886	00	00	60
		878	00	04	30
		890	00	01	00

1	2	3	4	5	6
	दक्षिण श्रीकृष्णपुर -- 59	891	00	02	20
	जारी...	892	00	01	90
		857	00	00	30
		904	00	03	90
		845	00	00	20
		843	00	00	20
		842	00	01	40
		841	00	02	40
		840	00	01	30
		839	00	02	30
		833	00	01	80
		834	00	01	50
		835	00	00	40
		837	00	00	50
		836	00	02	90
		921	00	02	30
		794	00	00	30
		793	00	01	90
		792	00	05	40
		788	00	02	20
		787	00	02	30
		786	00	02	00
		513	00	03	90
		506	00	00	20
		507	00	03	70
		505	00	02	80
		129	00	02	80
		130	00	02	70
		134	00	03	00
		133	00	02	60
		136	00	02	50
		132	00	03	10
		131	00	00	70
		140	00	01	60

1	2	3	4	5	6
	दक्षिण श्रीकृष्णपुर – 59	115	00	11	60
	जारी.....	114	00	00	70
		40	00	02	40
		41	00	01	80
		42	00	04	20
		43	00	04	60
		48	00	01	60
		4	00	04	00
		8	00	00	60
		6	00	01	10
7	पुयेदा – 35	2191	00	01	20
		2190	00	00	90
		2187	00	04	70
		2188	00	02	10
		2187/2236	00	01	40
		2184	00	00	90
		2186	00	01	30
		2185	00	00	80
		2183	00	01	00
		2177	00	01	00
		2176	00	01	10
		2171	00	01	50
		2170	00	01	90
		2167	00	08	90
		2155	00	03	10
		2153	00	01	90
		2151	00	00	20
		2152	00	02	70
		2146	00	02	40
		2147	00	02	60
		2136	00	03	20
		2137	00	00	40
		2133	00	03	60
		2131	00	04	40

1	2	3	4	5	6
	पुयेदा – 35	2128	00	02	20
	जारी.....	2125	00	02	40
		2114	00	01	70
		2113	00	01	10
		2111	00	00	30
		2063	00	01	30
		2126	00	01	20
		2112	00	00	40
8	टीकारामपुर – 52	229	00	00	20
		227	00	10	60
		167	00	00	20
		168	00	02	30
		225	00	01	40
		222	00	00	20
		169	00	08	00
		170 / 1492	00	00	20
		171	00	02	80
		174 / 1495	00	03	10
		174	00	02	60
		173	00	00	60
		174 / 1494	00	01	40
		176 / 1497	00	00	20
		176	00	01	70
		176 / 1498	00	01	70
		176 / 1499	00	00	20
		177	00	03	90
		103	00	00	20
		102	00	00	40
		99	00	00	60
		98	00	01	00
9	तारागेड़े – 51	507	00	00	90
		506	00	00	80
		484	00	00	40
		485	00	03	80

1	2	3	4	5	6
	तारागेड़े – 51	488 / 527	00	02	20
	जारी.....	487	00	01	20
		488	00	01	20
		497	00	02	20
		498	00	05	10
		500	00	00	20
		499	00	03	40
		428	00	01	50
		425	00	03	80
		426	00	04	00
		419	00	01	10
		407	00	04	00
		417	00	01	30
		408	00	01	70
		410	00	02	10
		411	00	01	40
		412	00	01	10
		401	00	03	20
		317	00	02	00
		318	00	01	90
		319	00	01	10
		326	00	00	20
		325	00	02	90
		320	00	00	20
		322	00	02	70
		323	00	01	10
		299	00	00	60
		298	00	00	20
		297	00	00	40
		279	00	00	50
		280	00	02	80
		281	00	00	20
		282	00	00	30
		295	00	02	60
		283	00	00	40
		285	00	00	30
		284	00	01	80
		286	00	01	60

1	2	3	4	5	6
	तारागेडे – 51	269	00	01	70
	जारी.....	268	00	03	00
		267	00	03	10
		235	00	00	30
		236	00	05	40
		241	00	00	20
		241 / 509	00	00	20
		240	00	04	90
		239	00	00	40
		201	00	00	50
		73	00	04	70
		36	00	00	40
		71	00	05	70
		37	00	03	60
		70	00	00	20
		61	00	04	10
		66	00	00	80
		62	00	01	80
		63	00	00	20
		64	00	00	70
		58	00	00	20
		961	00	00	40
10	शितलपुर – 71	2693	00	01	30
		2722	00	01	00
		2696	00	00	20
		2695	00	10	50
		2694 / 3885	00	00	20
		2694	00	01	50

[फा. सं. आर.-25011/24/2012-ओ.आर. I]

पवन कुमार, अवर सचिव

New Delhi, the 20th February, 2013

S.O. 449.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S.C.Sarkar, W.B.C.S (Exe.)Retd.Competent Authority Paradip – Haldia –Durgapur LPG Pipeline & Augmentation of Paradip – Haldia –Barauni Pipeline Project, P.O,Duillya, Andul - Mouri, Mourigram,Howrah, 711-302 (West Bengal)

SCHEDULE

P S : NANDAKUMAR DISTRICT : PURBA MEDINIPUR STATE : WEST BENGAL					
Sl. No.	Name of the Mouza	Khasra No. (R.S)	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1	MADHABPUR - 122	2296	00	04	40
		2297	00	02	00
		2295	00	00	90
		2299	00	02	00
		2307	00	06	30
		2311	00	04	80
		2310	00	00	20
		2327	00	01	40
		2325	00	00	20
		2326	00	04	60
		2328/3066	00	06	20
		2329	00	03	30
		2284	00	04	50
		2285	00	01	60
		2278	00	04	30
		2277	00	01	50
		2279	00	00	30
		2276	00	01	80
		2275	00	02	40
		2280	00	00	20
		3188	00	01	70
		2272	00	00	30
		2273	00	01	10
		2274	00	03	10
		1247	00	04	60
		1246	00	00	40
		1245	00	01	60
		1243/3079	00	00	20
		1243	00	01	00
		1242	00	02	40

1	2	3	4	5	6
	MADHABPUR - 122	1241	00	00	20
	Contd...	2255	00	02	20
		1271	00	01	30
		1270	00	00	20
		1272	00	00	20
		1174	00	00	20
		1275	00	02	10
		1274	00	02	30
		1278	00	06	90
		1286	00	02	00
		1285	00	03	20
		3178	00	01	60
		1224	00	04	70
		1220	00	00	20
		1221	00	01	80
		1222	00	01	70
		1214	00	02	10
		1212	00	02	20
		1207	00	00	20
		1206	00	01	90
		1205	00	01	70
		1204	00	00	20
		1203	00	04	70
		1202	00	04	70
		1188	00	02	10
		1187	00	00	80
		1186	00	01	20
		1185	00	02	30
		1213/3073	00	01	80
		1176	00	02	80
		1175	00	04	40
		1171	00	00	80
		1170	00	05	90
2	KUMARARA - 118	1335	00	00	80

1	2	3	4	5	6
	KUMARARA - 118	1286	00	03	10
	Contd.	1334	00	03	80
		1330	00	01	80
		1332	00	01	00
		1333	00	00	20
		1331	00	01	40
		1363	00	02	10
		1363/2061	00	02	80
		1324	00	00	30
		1311	00	03	80
		1313	00	00	20
		1312	00	00	90
		1310	00	01	90
		1302	00	01	30
		1301	00	00	50
		1303	00	01	70
		1304	00	01	60
		1297	00	02	90
		1296	00	06	40
		1294	00	01	70
		1295	00	03	90
		1288/729	00	02	20
		1293	00	00	20
		1292	00	00	20
		1290	00	02	50
		1289	00	01	40
		1287	00	08	40
		1288	00	00	20
		1285	00	00	20
		1284	00	00	30
		926	00	00	40
		969	00	01	10
		968	00	01	10
		973	00	03	00

1	2	3	4	5	6
	KUMARARA - 118	999	00	09	00
	Contd...	995	00	01	50
		996	00	00	20
		1032	00	04	80
		1033	00	05	20
		1035	00	00	20
		1034	00	04	80
		1038/1919	00	00	40
		1038	00	01	30
		1039	00	00	40
		1070	00	01	20
		1050	00	02	70
		1049	00	00	20
		1048	00	02	30
		1047	00	00	60
		1046	00	00	20
		1052	00	01	10
		1054	00	03	40
		1055	00	03	50
		878/2159	00	01	10
		878	00	00	30
		864	00	01	90
		865	00	01	40
		863	00	01	50
		862	00	00	80
		861	00	01	30
		866	00	00	20
		848	00	04	60
		847	00	03	50
3	DHITAIBASHAN - 100	214	00	00	20
		210	00	05	40
		212	00	01	10
		211	00	02	80
		242	00	00	40

1	2	3	4	5	6
	DHITAIBASHAN - 100	243	00	03	00
	Contd...	204	00	02	40
		203	00	01	00
		244	00	00	20
		245	00	01	30
		200	00	03	30
		198	00	00	50
		199	00	02	00
		181	00	09	60
4	MANDARGECHHYA - 90	1401	00	05	50
		1402	00	00	20
		1392	00	00	20
		1393	00	02	20
		1394	00	02	10
		1388	00	00	90
		1395	00	00	20
		1382	00	01	60
		1383	00	01	50
		1337	00	01	40
		1245	00	03	50
		1246	00	01	40
		1244	00	02	90
		1240	00	04	30
		1241	00	01	90
		1239	00	03	80
		1236	00	01	30
		1237	00	01	80
		1235	00	00	80
		1231	00	01	30
		1233	00	00	80
		1154	00	03	70
		1155	00	00	20
5	JAMBURBASHAN - 87	790	00	00	70
		791	00	00	20

1	2	3	4	5	6
	JAMBURBASHAN - 87	789	00	00	20
	Contd..	788	00	01	00
		787	00	01	00
		786	00	00	20
		778	00	02	20
		779	00	00	60
		777	00	01	30
		775	00	00	50
		774	00	00	50
		774/1406	00	03	80
		743	00	02	00
		742	00	01	10
		741	00	01	30
		740	00	02	30
		749	00	00	70
		739/1398	00	00	20
		737	00	05	70
		736	00	02	10
		735	00	00	30
		726	00	01	20
		771	00	00	20
		727	00	04	00
		725	00	00	20
		728	00	00	20
		729	00	00	20
		721	00	00	20
		722	00	02	50
		723	00	00	20
6	DAKSHIN SRIKRISNAPUR - 59	881	00	00	70
		882	00	00	20
		879	00	05	30
		886	00	00	60
		878	00	04	30
		890	00	01	00

1	2	3	4	5	6
	DAKSHIN SRIKRISNAPUR - 59	891	00	02	20
	Contd	892	00	01	90
		857	00	00	30
		904	00	03	90
		845	00	00	20
		843	00	00	20
		842	00	01	40
		841	00	02	40
		840	00	01	30
		839	00	02	30
		833	00	01	80
		834	00	01	50
		835	00	00	40
		837	00	00	50
		836	00	02	90
		921	00	02	30
		794	00	00	30
		793	00	01	90
		792	00	05	40
		788	00	02	20
		787	00	02	30
		786	00	02	00
		513	00	03	90
		506	00	00	20
		507	00	03	70
		505	00	02	80
		129	00	02	80
		130	00	02	70
		134	00	03	00
		133	00	02	60
		136	00	02	50
		132	00	03	10
		131	00	00	70
		140	00	01	60

1	2	3	4	5	6
	DAKSHIN SRIKRISNAPUR - 59	115	00	11	60
	Contd.	114	00	00	70
		40	00	02	40
		41	00	01	80
		42	00	04	20
		43	00	04	60
		48	00	01	60
		4	00	04	00
		8	00	00	60
		6	00	01	10
7	PUYEDA - 35	2191	00	01	20
		2190	00	00	90
		2187	00	04	70
		2188	00	02	10
		2187/2236	00	01	40
		2184	00	00	90
		2186	00	01	30
		2185	00	00	80
		2183	00	01	00
		2177	00	01	00
		2176	00	01	10
		2171	00	01	50
		2170	00	01	90
		2167	00	08	90
		2155	00	03	10
		2153	00	01	90
		2151	00	00	20
		2152	00	02	70
		2146	00	02	40
		2147	00	02	60
		2136	00	03	20
		2137	00	00	40
		2133	00	03	60
		2131	00	04	40

1	2	3	4	5	6
	PUYEDA - 35				
	Contd...	2128	00	02	20
		2125	00	02	40
		2114	00	01	70
		2113	00	01	10
		2111	00	00	30
		2063	00	01	30
		2126	00	01	20
		2112	00	00	40
8	TIKARAMPUR - 52	229	00	00	20
		227	00	10	60
		167	00	00	20
		168	00	02	30
		225	00	01	40
		222	00	00	20
		169	00	08	00
		170/1492	00	00	20
		171	00	02	80
		174/1495	00	03	10
		174	00	02	60
		173	00	00	60
		174/1494	00	01	40
		176/1497	00	00	20
		176	00	01	70
		176/1498	00	01	70
		176/1499	00	00	20
		177	00	03	90
		103	00	00	20
		102	00	00	40
		99	00	00	60
		98	00	01	00
9	TARAGERE - 51	507	00	00	90
		506	00	00	80
		484	00	00	40
		485	00	03	80

1	2	3	4	5	6
	TARAGERE - 51	488/527	00	02	20
	Contd.	487	00	01	20
		488	00	01	20
		497	00	02	20
		498	00	05	10
		500	00	00	20
		499	00	03	40
		428	00	01	50
		425	00	03	80
		426	00	04	00
		419	00	01	10
		407	00	04	00
		417	00	01	30
		408	00	01	70
		410	00	02	10
		411	00	01	40
		412	00	01	10
		401	00	03	20
		317	00	02	00
		318	00	01	90
		319	00	01	10
		326	00	00	20
		325	00	02	90
		320	00	00	20
		322	00	02	70
		323	00	01	10
		299	00	00	60
		298	00	00	20
		297	00	00	40
		279	00	00	50
		280	00	02	80
		281	00	00	20
		282	00	00	30
		295	00	02	60
		283	00	00	40
		285	00	00	30
		284	00	01	80
		286	00	01	60

1	2	3	4	5	6
	TARAGERE - 51	269	00	01	70
	Contd...	268	00	03	00
		267	00	03	10
		235	00	00	30
		236	00	05	40
		241	00	00	20
		241/509	00	00	20
		240	00	04	90
		239	00	00	40
		201	00	00	50
		73	00	04	70
		36	00	00	40
		71	00	05	70
		37	00	03	60
		70	00	00	20
		61	00	04	10
		66	00	00	80
		62	00	01	80
		63	00	00	20
		64	00	00	70
		58	00	00	20
		961	00	00	40
10	SHITALPUR - 71	2693	00	01	30
		2722	00	01	00
		2696	00	00	20
		2695	00	10	50
		2694/3885	00	00	20
		2694	00	01	50

[F. No. R-25011/24/2012-O.R.-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 20 फरवरी, 2013

का.आ. 450.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पश्चिम बंगाल राज्य में पारादीप(उडीसा) से दुर्गापुर (पश्चिम बंगाल) तक वाया हल्दिया एलपीजी गैस परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियॉ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री एस.सी. सरकार, डब्ल्यू. बी. सी. एस. (प्रशासनिक) सेवानिवृत्त सक्षम प्राधिकारी, पारादीप – हल्दिया –दुर्गापुर एलपीजी पाइपलाइन एवम् पारादीप -- हल्दिया -- बरौनी पाइपलाइन ऑगमेंटेशन योजना, डाकघर दुईल्या, आन्दुल--मौरी, मौरीग्राम हावडा--711 302 (पश्चिम बंगाल) को लिखित रुप में आक्षेप भेज सकेगा।

अनुसूची

पुलिस स्टेशन : तमलुक – I		जिला : पूर्व मेदिनीपुर	राज्य : पश्चिम बंगाल		
क्रम सं.	मौजा का नाम	खसरा सं. (आर.एस.)	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मी.
1	2	3	4	5	6
1	धरिन्दा – 279	1870	00	00	50
		1871	00	03	40
		1866	00	02	82
		1867	00	00	70
		1865	00	01	40
		1864	00	01	10
		1863	00	01	40
		1862	00	00	20
		1175	00	00	90
		1176	00	03	20
		1178/1960	00	00	30
		1178	00	02	00
		1179	00	01	70
		1255	00	03	40
		1254	00	00	20
		1191	00	03	10
		1252	00	00	70
		1251	00	01	70
		1250	00	00	20
		1196	00	02	60
		1197	00	00	70
		1198	00	02	20
		1199	00	00	20
		1245	00	01	40
		1244	00	00	20
		1246	00	01	40
		1247	00	01	70
		1248	00	01	70
		1269	00	01	50
		1270	00	02	30

1	2	3	4	5	6
	धरिन्दा -- 279	1274	00	03	20
	जारी..	1275	00	01	60
		1273	00	00	20
		1284	00	03	70
		1285	00	00	20
		1291	00	00	50
		1292	00	01	20
		1298	00	00	20
		1293	00	01	30
		1295	00	02	10
		1296	00	03	30
		1317	00	01	90
		1318	00	00	30
		1319	00	00	20
		1320	00	01	00
		1321	00	00	80
		1051	00	01	20
		1050	00	00	80
		1049	00	01	30
		1038	00	00	50
		970	00	03	10
		971	00	00	90
		972	00	03	50
		967	00	03	80
		983	00	01	50
		984	00	00	50
		985	00	00	20
		827	00	08	10
		828	00	03	20
		825	00	00	60
		824	00	01	20
		823	00	01	30
		822	00	01	60
		832	00	00	**40**

1	2	3	4	5	6
	धरिन्दा – 279 (जारी.....)	821	00	00	50
2	डहरपुर – 276	266	00	00	20
		265	00	01	10
		264	00	00	90
		249	00	02	90
		248	00	00	70
		252	00	01	70
		261	00	00	80
		253	00	00	20
		254	00	00	80
		257	00	03	30
		255	00	01	80
		256	00	02	10
		171	00	04	60
		168	00	00	80
		169	00	01	60
		170	00	00	90
		78/522	00	04	50
		78	00	04	10
		88	00	00	20
		87	00	06	50
		84	00	01	80
		85	00	00	20
		83	00	06	90
		82	00	04	50
		32	00	01	60
		33	00	01	10
		31	00	01	60
		2	00	00	503
		1	00	01	30
3	पदुमबसान – 144	624	00	01	80
		623/2408	00	01	20
		623	00	00	90
		613	00	01	80

1	2	3	4	5	6
	पदुमबसान – 144	612	00	05	10
	जारी...	611	00	04	90
		608	00	00	20
		580	00	04	40
		579	00	02	90
		581	00	00	20
		584	00	00	20
		585	00	00	20
		586	00	06	40
		587	00	00	20
		588	00	01	70
		589	00	00	20
		576	00	03	70
		568	00	04	90
		569	00	01	00
		546	00	02	00
		567	00	00	20
		547	00	01	60
		545	00	11	10
		548	00	00	20
		549	00	00	20
		527	00	01	20
		528 / 2672	00	00	20
		526	00	06	30
		525	00	00	20
		522	00	07	59
		519	00	02	60
		518	00	02	00
		517	00	01	80
		488	00	03	30
		487	00	01	00
		485	00	02	30
		486	00	01	90
		476	00	01	60

1	2	3	4	5	6
	पदुमबसान – 144	471/2414	00	01	60
	जारी.....	403	00	01	20
		160	00	03	80
		159	00	01	50
		161	00	00	90
		158	00	01	10
		157	00	04	00
		156	00	01	50
		155	00	00	20
		154	00	04	90
		153	00	00	20
		128	00	00	20
		130	00	01	70
		129	00	04	40
		127	00	04	20
		111	00	02	90
4	धाड़पदुमबसान – 145	164	00	00	90
		162	00	00	90
		161	00	00	20
		160	00	05	10
		159	00	02	60
		171	00	00	80
		172	00	00	20
		171/914	00	01	90
		206	00	01	20
		200	00	02	20
		204	00	00	40
		201	00	02	20
		195	00	00	20
		199	00	01	10
		198	00	00	30
		196	00	04	80
		197	00	00	20
		219	00	04	30

1	2	3	4	5	6
	बाड़पदुमबसान – 145 जारी.....	217	00	06	70
		218	00	02	70
		242	00	01	40
		240	00	00	20
	भूवनेश्वरपुर – 146	64	00	01	40
		67	00	02	20
		68	00	00	20
		91	00	01	20
		63	00	03	40
		65	00	02	10
		62	00	00	40
		66	00	04	40
		71	00	00	70
		142	00	02	10
		143	00	00	20
		141	00	01	30
		140	00	03	50
		145	00	02	40
		138	00	00	40
		137	00	01	70
		146	00	00	20
		136	00	01	30
		149	00	02	00
		150	00	02	30
		148	00	00	20
		151	00	03	90
		152	00	00	60
		154	00	00	30
		155	00	03	30
		475	00	00	60
		474	00	05	20
		473	00	00	30
		474 / 1742	00	03	50
		497	00	00	30

1	2	3	4	5	6
	भूवनेश्वरपुर – 146	496	00	00	50
	जारी.....	495	00	00	20
		494	00	03	50
		1680	00	00	20
		468	00	00	20
		493	00	00	50
		490	00	00	20
		492	00	01	80
		594	00	03	70
		595	00	01	80
		596	00	01	40
		597	00	01	50
		598	00	00	90
		599	00	00	30
		600	00	00	20
		169	00	01	00
		919/1706	00	00	70
6	राधा बल्लभपुर – 137	694	00	01	40
		615	00	02	00
		613	00	13	80
		589	00	00	70
		588	00	00	20
		614	00	01	10
		612	00	00	60
		590	00	00	20
		592	00	04	90
		593	00	02	80
		594	00	03	20
		595	00	04	00
		597	00	00	80
		565	00	04	10
		566	00	03	30
		567	00	05	00
		573	00	01	70

1	2	3	4	5	6
	राधा बल्लभपुर – 137	571	00	00	90
	जारी.....	570	00	01	10
		568	00	00	30
		569	00	00	40
		572	00	00	50
		566	00	03	30
		564	00	00	70
		563	00	03	70
		562	00	01	90
		561	00	00	40
		557	00	03	70
		556	00	00	40
		558	00	03	50
		545	00	09	30
		543	00	01	00
		544	00	05	70
		498	00	04	50
		510	00	04	30
		509	00	00	90
		511	00	00	20
		512	00	09	40
		513	00	01	40
		504	00	04	90
		503	00	00	20
7	बॅहिचाड़ – 136	753	00	03	70
		752	00	05	80
		751	00	08	60
		750	00	04	40
		748	00	00	20
		749	00	00	40
8	रामकालुया – 97	58	00	03	90
		59	00	00	90
		60	00	01	10
		65	00	00	20

1	2	3	4	5	6
	रामकालुया - 97	75	00	00	80
	जारी.....	76/788	00	02	40
9	हरशकर खामारचक – 59	1776	00	03	40
		1775	00	01	30
		1774	00	01	40
		1773	00	01	20
		1764	00	00	20
		1772	00	00	70
		1795	00	01	90
		1756	00	00	40
		1771	00	01	90
		1770	00	01	90
		1769	00	02	40
		1674	00	04	50
		1675	00	03	00
		1676	00	05	40
		1669	00	07	20
		1680	00	00	60
		1668	00	01	00
		1665	00	01	30
		1630	00	05	20
		1629	00	01	50
		1628	00	00	90
		1627	00	01	10
		1610	00	01	00
		1631	00	00	60
		1632	00	03	10
		1609	00	02	10
		1633	00	03	20
		1651	00	00	20
		1595	00	01	30
		1590	00	02	40
		1589	00	00	80
		1588	00	00	70

1	2	3	4	5	6
	हरशंकर खामारचक – 59	1587	00	02	80
	जारी.....	1577	00	00	90
		1557	00	04	00
		1558	00	03	50
		1559	00	02	90
		1547	00	01	50
		1546	00	06	30
		1518	00	05	70
		1517	00	02	50
		1516	00	02	20
		1480	00	03	30
		1479	00	03	00
		1475	00	03	10
		1524	00	01	40
10	नीलकंठिया – 52	1538	00	06	30
		602	00	05	30
		603	00	03	90
		604	00	03	50
		606	00	02	20
		605	00	03	60
		610	00	02	90
		612	00	02	80
		613	00	03	80
		614	00	04	40
		615	00	01	80
		616	00	01	10
		617	00	01	70
		618	00	01	40
		619	00	01	50
		651	00	02	60
		652	00	02	30
		653	00	00	20
		650	00	05	10
		632	00	03	60

1	2	3	4	5	6
	नीलकंठिया -- 52	649	00	01	60
	जारी.....	648	00	00	20
		647	00	00	70
		646	00	02	00
		645	00	01	20
		644	00	01	70
		643	00	01	60
		636	00	03	00
		638	00	00	20
		1479/3129	00	00	20
		637	00	03	30
		1478	00	01	30
		684	00	01	20
		913	00	02	40
		911	00	02	20
		910	00	00	20
		914	00	01	60
		923	00	00	80
		922	00	00	20
		920	00	02	00
		919	00	00	30
		921	00	01	00
		918	00	01	20
		917	00	01	60
		916	00	02	50
		964	00	00	30
		962	00	01	40
		961	00	05	90
		966	00	03	30
		1108	00	00	20
		967	00	01	20
		967/3071	00	01	50
		1107	00	02	70
		1101	00	00	20

1	2	3	4	5	6
	नीलकंठिया – 52	1103	00	00	50
	जारी.....	1102	00	02	80
		1099	00	00	70
		1098	00	02	60
		1097	00	01	40
		1096	00	00	40
		1095	00	03	00
		1091	00	03	30
		1093	00	00	20
		1092	00	02	10
		1043	00	03	30
		1044	00	01	80
		1042	00	03	50
		1045	00	00	20
		1050	00	05	20
		1058	00	00	80
		1056	00	01	50
		1057	00	03	70
		1216	00	01	10
		1217	00	01	10
		1220	00	00	70
		1221	00	01	40
		1222	00	02	00
		1223	00	03	70
		1224	00	00	80
		20	00	01	90
		100	00	02	10
		99	00	03	10
		98	00	06	70
		87	00	03	00
		94	00	01	30
		93	00	03	40
		92	00	00	60
		91	00	00	20

1	2	3	4	5	6
	नीलकंठिया – 52	90	00	00	20
	जारी.....	2978	00	00	20
		2987	00	04	60
		2988	00	02	40
		2990	00	06	00
		2954	00	00	60
		2954 / 3306	00	01	40
		2953 / 3305	00	03	10
		2953	00	03	20
		2975 / 3478	00	00	80
		2975	00	00	90
		2952 / 3292	00	02	80
		2947	00	00	20
		2948	00	00	20
		2952	00	03	00
		2949	00	01	50
		2950	00	02	40
		2925 / 3287	00	03	40
		2951	00	00	20
		2925	00	01	30
		2926	00	02	70
		2920	00	01	20
		2916	00	04	70
		2919	00	00	20
		2917	00	02	80
		2918	00	00	20
		2917 / 3286	00	03	20
		2908	00	05	90
		2910	00	00	20
		2909	00	05	00
		2897	00	07	60
		2900	00	03	50
		2899	00	03	10
		2898	00	00	60
		2876	00	02	70
		2877 / 3282	00	03	20
		2878	00	02	40
		2879	00	02	10

1	2	3	4	5	6
	नीलकंठिया – 52	2880	00	00	20
	जारी.....	2868	00	05	80
		2867	00	00	20
		2864 / 3281	00	01	40
		2864	00	04	70
		2860	00	02	30
		2861	00	02	10
		2861 / 3279	00	00	20
		2862	00	02	70
		2858	00	01	30
		1574	00	00	40
		1575	00	00	30
		1576	00	01	80
		1577	00	00	60
		1582	00	01	60
		1581	00	02	30
		1584	00	00	20
		1585	00	00	20
		1586	00	00	20
		1587	00	00	20
		1588	00	00	50
		1568	00	00	70
		1567	00	01	90
		1589	00	01	00
		1656	00	00	80
		1657	00	04	40
		1658	00	02	50

[फा. सं. आर.-25011/27/2012-ओ.आर.-I]

पवन कुमार, अवर सचिव

New Delhi, the 20th February, 2013

S.O. 450.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Paradip (Odisha) to Durgapur (West Bengal) Via Haldia a pipeline should be laid in State of West Bengal by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri S.C.Sarkar, W.B.C.S (Exe.)Retd.Competent Authority Paradip – Haldia –Durgapur LPG Pipeline & Augmentation of Paradip – Haldia –Barauni Pipeline Project, P.O,Duillya, Andul - Mouri, Mourigram,Howrah, 711-302 (West Bengal)

SCHEDULE

P S: TAMLUK - I	DISTRICT : PURBA MEDINIPUR	STATE : WEST BENGAL			
Sl. No.	Name of the Mouza	Khasra No. (R.S.)	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1	DHARINDA - 279	1870	00	00	50
		1871	00	03	40
		1866	00	02	82
		1867	00	00	70
		1865	00	01	40
		1864	00	01	10
		1863	00	01	40
		1862	00	00	20
		1175	00	00	90
		1176	00	03	20
		1178/1960	00	00	30
		1178	00	02	00
		1179	00	01	70
		1255	00	03	40
		1254	00	00	20
		1191	00	03	10
		1252	00	00	70
		1251	00	01	70
		1250	00	00	20
		1196	00	02	60
		1197	00	00	70
		1198	00	02	20
		1199	00	00	20
		1245	00	01	40
		1244	00	00	20
		1246	00	01	40
		1247	00	01	70
		1248	00	01	70
		1269	00	01	50
		1270	00	02	30

1	2	3	4	5	6
	DHARINDA - 279	1274	00	03	20
		1275	00	01	60
		1273	00	00	20
		1284	00	03	70
		1285	00	00	20
		1291	00	00	50
		1292	00	01	20
		1298	00	00	20
		1293	00	01	30
		1295	00	02	10
		1296	00	03	30
		1317	00	01	90
		1318	00	00	30
		1319	00	00	20
		1320	00	01	00
		1321	00	00	80
		1051	00	01	20
		1050	00	00	80
		1049	00	01	30
		1038	00	00	50
		970	00	03	10
		971	00	00	90
		972	00	03	50
		967	00	03	80
		983	00	01	50
		984	00	00	50
		985	00	00	20
		827	00	08	10
		828	00	03	20
		825	00	00	60
		824	00	01	20
		823	00	01	30
		822	00	01	60
		832	00	00	40

1	2	3	4	5	6
	DHARINDA - 279 (Contd...)	821	00	00	50
2	DAHARPUR - 276	266	00	00	20
		265	00	01	10
		264	00	00	90
		249	00	02	90
		248	00	00	70
		252	00	01	70
		261	00	00	80
		253	00	00	20
		254	00	00	80
		257	00	03	30
		255	00	01	80
		256	00	02	10
		171	00	04	60
		168	00	00	80
		169	00	01	60
		170	00	00	90
		78/522	00	04	50
		78	00	04	10
		88	00	00	20
		87	00	06	50
		84	00	01	80
		85	00	00	20
		83	00	06	90
		82	00	04	50
		32	00	01	60
		33	00	01	10
		31	00	01	60
		2	00	00	503
		1	00	01	30
3	PADUMBASAN - 144	624	00	01	80
		623/2408	00	01	20
		623	00	00	90
		613	00	01	80

1	2	3	4	5	6
	PADUMBASAN - 144	612	00	05	10
		611	00	04	90
		608	00	00	20
		580	00	04	40
		579	00	02	90
		581	00	00	20
		584	00	00	20
		585	00	00	20
		586	00	06	40
		587	00	00	20
		588	00	01	70
		589	00	00	20
		576	00	03	70
		568	00	04	90
		569	00	01	00
		546	00	02	00
		567	00	00	20
		547	00	01	60
		545	00	11	10
		548	00	00	20
		549	00	00	20
		527	00	01	20
		28/2672	00	00	20
		526	00	06	30
		525	00	00	20
		522	00	07	59
		519	00	02	60
		518	00	02	00
		517	00	01	80
		488	00	03	30
		487	00	01	00
		485	00	02	30
		486	00	01	90
		476	00	01	60

1	2	3	4	5	6
	PADUMBASAN - 144	471/2414	00	01	60
		403	00	01	20
		160	00	03	80
		159	00	01	50
		161	00	00	90
		158	00	01	10
		157	00	04	00
		156	00	01	50
		155	00	00	20
		154	00	04	90
		153	00	00	20
		128	00	00	20
		130	00	01	70
		129	00	04	40
		127	00	04	20
		111	00	02	90
4	BARPADUMBASAN - 145	164	00	00	90
		162	00	00	90
		161	00	00	20
		160	00	05	10
		159	00	02	60
		171	00	00	80
		172	00	00	20
		171/914	00	01	90
		206	00	01	20
		200	00	02	20
		204	00	00	40
		201	00	02	20
		195	00	00	20
		199	00	01	10
		198	00	00	30
		196	00	04	80
		197	00	00	20
		219	00	04	30

1	2	3	4	5	6
	BARPADUMBASAN - 145	217	00	06	70
		218	00	02	70
		242	00	01	40
		240	00	00	20
5	BHUBANESWARPUR - 146	64	00	01	40
		67	00	02	20
		68	00	00	20
		91	00	01	20
		63	00	03	40
		65	00	02	10
		62	00	00	40
		66	00	04	40
		71	00	00	70
		142	00	02	10
		143	00	00	20
		141	00	01	30
		140	00	03	50
		145	00	02	40
		138	00	00	40
		137	00	01	70
		146	00	00	20
		136	00	01	30
		149	00	02	00
		150	00	02	30
		148	00	00	20
		151	00	03	90
		152	00	00	60
		154	00	00	30
		155	00	03	30
		475	00	00	60
		474	00	05	20
		473	00	00	30
		474/1742	00	03	50
		497	00	00	30

1	2	3	4	5	6
	BHUBANESWARPUR - 146	496	00	00	50
		495	00	00	20
		494	00	03	50
		1680	00	00	20
		468	00	00	20
		493	00	00	50
		490	00	00	20
		492	00	01	80
		594	00	03	70
		595	00	01	80
		596	00	01	40
		597	00	01	50
		598	00	00	90
		599	00	00	30
		600	00	00	20
		169	00	01	00
		919/1706	00	00	70
6	RADHA BALLAVPUR - 137	694	00	01	40
		615	00	02	00
		613	00	13	80
		589	00	00	70
		588	00	00	20
		614	00	01	10
		612	00	00	60
		590	00	00	20
		592	00	04	90
		593	00	02	80
		594	00	03	20
		595	00	04	00
		597	00	00	80
		565	00	04	10
		566	00	03	30
		567	00	05	00
		573	00	01	70

1	2	3	4	5	6
	RADHA BALLAVPUR - 137	571	00	00	90
		570	00	01	10
		568	00	00	30
		569	00	00	40
		572	00	00	50
		566	00	03	30
		564	00	00	70
		563	00	03	70
		562	00	01	90
		561	00	00	40
		557	00	03	70
		556	00	00	40
		558	00	03	50
		545	00	09	30
		543	00	01	00
		544	00	05	70
		498	00	04	50
		510	00	04	30
		509	00	00	90
		511	00	00	20
		512	00	09	40
		513	00	01	40
		504	00	04	90
		503	00	00	20
7	BANHICHAR - 136	753	00	03	70
		752	00	05	80
		751	00	08	60
		750	00	04	40
		748	00	00	20
		749	00	00	40
8	RAMKALUA - 97	58	00	03	90
		59	00	00	90
		60	00	01	10
		65	00	00	20

1	2	3	4	5	6
	RAMKALUA - 97	75	00	00	80
		76/788	00	02	40
9	HARASHANKAR KHAMARCHAK - 59	1776	00	03	40
		1775	00	01	30
		1774	00	01	40
		1773	00	01	20
		1764	00	00	20
		1772	00	00	70
		1795	00	01	90
		1756	00	00	40
		1771	00	01	90
		1770	00	01	90
		1769	00	02	40
		1674	00	04	50
		1675	00	03	00
		1676	00	05	40
		1669	00	07	20
		1680	00	00	60
		1668	00	01	00
		1665	00	01	30
		1630	00	05	20
		1629	00	01	50
		1628	00	00	90
		1627	00	01	10
		1619	00	01	00
		1631	00	00	60
		1632	00	03	10
		1609	00	02	10
		1633	00	03	20
		1651	00	00	20
		1595	00	01	30
		1590	00	02	40
		1589	00	00	80
		1588	00	00	70

1	2	3	4	5	6
	HARASHANKAR KHAMARCHAK - 59	1587	00	02	80
	Contd...	1577	00	00	90
		1557	00	04	00
		1558	00	03	50
		1559	00	02	90
		1547	00	01	50
		1546	00	06	30
		1518	00	05	70
		1517	00	02	50
		1516	00	02	20
		1480	00	03	30
		1479	00	03	00
		1475	00	03	10
		1524	00	01	40
10	NILKANTHIA - 52	1538	00	06	30
		602	00	05	30
		603	00	03	90
		604	00	03	50
		606	00	02	20
		605	00	03	60
		610	00	02	90
		612	00	02	80
		613	00	03	80
		614	00	04	40
		615	00	01	80
		616	00	01	10
		617	00	01	70
		618	00	01	40
		619	00	01	50
		651	00	02	60
		652	00	02	30
		653	00	00	20
		650	00	05	10
		632	00	03	60

1	2	3	4	5	6
	NILKANTHIA - 52	649	00	01	60
	Contd	648	00	00	20
		647	00	00	70
		646	00	02	00
		645	00	01	20
		644	00	01	70
		643	00	01	60
		636	00	03	00
		638	00	00	20
		1479/3129	00	00	20
		637	00	03	30
		1478	00	01	30
		684	00	01	20
		913	00	02	40
		911	00	02	20
		910	00	00	20
		914	00	01	60
		923	00	00	80
		922	00	00	20
		920	00	02	00
		919	00	00	30
		921	00	01	00
		918	00	01	20
		917	00	01	60
		916	00	02	50
		964	00	00	30
		962	00	01	40
		961	00	05	90
		966	00	03	30
		1108	00	00	20
		967	00	01	20
		967/3071	00	01	50
		1107	00	02	70
		1101	00	00	20

1	2	3	4	5	6
	NILKANTHIA - 52	1103	00	00	50
	Contd...	1102	00	02	80
		1099	00	00	70
		1098	00	02	60
		1097	00	01	40
		1096	00	00	40
		1095	00	03	00
		1091	00	03	30
		1093	00	00	20
		1092	00	02	10
		1043	00	03	30
		1044	00	01	80
		1042	00	03	50
		1045	00	00	20
		1050	00	05	20
		1058	00	00	80
		1056	00	01	50
		1057	00	03	70
		1216	00	01	10
		1217	00	01	10
		1220	00	00	70
		1221	00	01	40
		1222	00	02	00
		1223	00	03	70
		1224	00	00	80
		20	00	01	90
		100	00	02	10
		99	00	03	10
		98	00	06	70
		87	00	03	00
		94	00	01	30
		93	00	03	40
		92	00	00	60
		91	00	00	20

1	2	3	4	5	6
	NILKANTHIA - 52	90	00	00	20
	Contd...	2978	00	00	20
		2987	00	04	60
		2988	00	02	40
		2990	00	06	00
		2954	00	00	60
		2954/3306	00	01	40
		2953/3305	00	03	10
		2953	00	03	20
		2975/3478	00	00	80
		2975	00	00	90
		2952/3292	00	02	80
		2947	00	00	20
		2948	00	00	20
		2952	00	03	00
		2949	00	01	50
		2950	00	02	40
		2925/3287	00	03	40
		2951	00	00	20
		2925	00	01	30
		2926	00	02	70
		2920	00	01	20
		2916	00	04	70
		2919	00	00	20
		2917	00	02	80
		2918	00	00	20
		2917/3286	00	03	20
		2908	00	05	90
		2910	00	00	20
		2909	00	05	00
		2897	00	07	60
		2900	00	03	50
		2899	00	03	10
		2898	00	00	60
		2876	00	02	70
		2877/3282	00	03	20
		2878	00	02	40
		2879	00	02	10

1	2	3	4	5	6
	NILKANTHIA - 52	2880	00	00	20
	Contd...	2868	00	05	80
		2867	00	00	20
		2864/3281	00	01	40
		2864	00	04	70
		2860	00	02	30
		2861	00	02	10
		2861/3279	00	00	20
		2862	00	02	70
		2858	00	01	30
		1574	00	00	40
		1575	00	00	30
		1576	00	01	80
		1577	00	00	60
		1582	00	01	60
		1581	00	02	30
		1584	00	00	20
		1585	00	00	20
		1586	00	00	20
		1587	00	00	20
		1588	00	00	50
		1568	00	00	70
		1567	00	01	90
		1589	00	01	00
		1656	00	00	80
		1657	00	04	40
		1658	00	02	50

[F. No. R-25011/27/2012-O.R.-I]

PAWAN KUMAR, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 24 जनवरी, 2013

का.आ. 451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय विद्यालय के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या-1, नई दिल्ली के पंचाट (संदर्भ संख्या 81/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-42012/217/2005-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 24th January, 2013

S.O. 451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Kendriya Vidyalaya, and their workmen, received by the Central Government on 24-01-2013.

[No. L-42012/217/2005-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DELHI

ID No. 81/2011

Shri Baij Nath Maurya
S/o Shri Ram Padarath,
R/o H.No.79-A, Block,
Gali No.1, Dakshinpuri,
New Delhi. ...Claimant

Versus

The Principal,
Kendriya Vidyalaya,
JNU Campus,
New Mehrauli Road,
New Delhi. ...Management

AWARD

A part time casual labour was engaged by Kendriya Vidyalaya, JNU Campus, New Mehrauli Road, New Delhi (in short the Vidyalaya). His services' were dispensed with on 15-01-2002. He approached the Conciliation Officer, where a settlement was arrived at and in pursuance of the settlement he was re-engaged by the Vidyalaya with effect from 14-11-2002. His services were again dispensed with on 14-11-2003. He made a demand for reinstatement of his services, which demand was not conceded to by the Vidyalaya. An industrial dispute was raised by him before the Conciliation Officer. Since his claim was contested by the Vidyalaya, conciliation proceedings ended into a failure. On consideration of failure report submitted by the Conciliation Officer, the appropriate Government referred the dispute to Central Government Industrial Tribunal No. 2, New Delhi, vide order No.L-42012/217/2005-IR(CM-II), New Delhi dated 17-08-2006 with following terms :

> "Whether the action of the management of Kendriya Vidyalaya in terminating the services of Shri Baij Nath Maurya with effect from 07-10-2004 is legal and justified? If not, 'to what relief the workman is entitled to?

2. Claim statement was filed by the casual labour, namely, Shri Baij Nath Maurya, pleading therein that he was working as gardener against a permanent post with the Vidyalaya. His services were terminated on 16-1-02 in an illegal manner. He approached the Conciliation Officer and a settlement was arrived at between the parties on 30-01-2002, wherein it was assured that his services would be reckoned with continuity and full back wages and would be reengaged by the Vidyalaya. He was taken back on duty on 14-11-2002. His services were again illegally terminated on 14.11.2003. He visited the Vidyalaya several times, requesting them to take him back on duty. His request was not conceded to. He declares that he is unemployed since the date of termination of his services. He seeks reinstatement of his services in the Vidyalaya with continuity and full back wages.

3. Claim was demurred by the Vidyalaya pleading that this Tribunal has no jurisdiction to entertain it, in view of the provisions of Administrative Tribunal Act, 1985. Vidyalaya claims that jurisdiction of this Tribunal has been excluded by the provisions of the aforesaid Act. It has not been disputed that the claimant was engaged by the Vidyalaya, but it is refuted that he was engaged against a permanent vacancy. It is projected that he was advised not to report for work with effect from 15-01-02. Settlement, entered into between the parties before the Conciliation Officer, is also not a matter of dispute. Vidyalaya. claims that in terms of the settlement, he was re-engaged on 14-11-2002. His services were discontinued with effect from 14-11-2003. His wages were paid till he was engaged by the Vidyalaya. Since his claim for reinstatement is unwarranted, it may be dismissed.

4. On pleadings of the parties, following issues were settled:

(i) Whether termination of services of the claimant was with effect from 07-10-04 or from 14-11-2003?

(ii) What is the effect of the ambiguity in the reference order?

(iii) As in terms of reference.

(iv) Relief.

5. Claimant has examined himself in support of his claim. Shri S.M. Garg, Principal, entered the witness box on behalf of the Vidyalaya. No other witness was examined by either of the parties.

6. Arguments were heard at the bar. Shri Sanjay Kumar, authorized representative, advanced arguments on behalf of the claimant. Dr. Pooran Chand, authorized representative, raised submissions on behalf of the Vidyalaya. Written submissions were also filed by the parties. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the records. My findings on issues involved in the controversy are as follows:

Issue No. 1.

7. In his claim statement, claimant pleads that his services were illegally terminated by the Vidyalaya for the second time on 14-11-2003. In its written statement, Vidyalaya projects that the claimant was re-engaged on 14-11-2002, in pursuance of settlement entered into between the parties before the Conciliation Officer. His services were discontinued on 14-11-2003, since he was a daily wage employee. Therefore, out of pleadings put forward by the parties, it is emerging that the services of the claimant were dispensed with on 14-11-2003.

8. In his affidavit Ex.WW1/A, tendered as evidence, claimant unfolds that his services were illegally terminated for the second time on 14-11-2003. Vidyalaya has not dispelled these facts, when testimony of the claimant was purified by an ordeal of cross examination. Shri S.M. Garg also declares in his affidavit Ex.MW1/A, tendered as evidence, that services of the claimant were dispensed with on 14-11-2003. Thus it is crystal clear that services of the claimant were dispensed with on 14-11-2003. Inadvertently, in the reference order; the appropriate Government has mentioned the date of termination of services of the claimant as 07-10-2004. Issue is, therefore, answered accordingly.

Issue No. 2

9. As pointed out above, services of the claimant were dispensed with on 14-11-2003 and not on 07-10-2004. In their pleadings, parties project that services of the claimant were dispensed with on 14-11-2003. For referring an industrial dispute for adjudication the appropriate Government should satisfy itself, on the facts and circumstances brought to its notice, in its subjective opinion that an industrial dispute exists or is apprehended. The factual existence of a dispute or its apprehension and expediency of making a reference are matters entirely for the Government to decide. An order making a reference is an administrative act and the fact that the Government has to form an opinion as to the factual existence of an industrial dispute as a preliminary step to the discharge of its function does not make it any the less administrative in character. The adequacy or sufficiency of material on which opinion was formed is beyond the pale of judicial scrutiny.

10. The scope of a reference is a matter of considerable importance. Although it is open to an industrial adjudicator to devise his own procedure, but he has to confine his adjudication to the points of dispute specified in the order of reference and to matters incidental thereto. Before embarking on adjudication, therefore, the adjudicator has to determine the scope of the order of reference. Hence, the question of the scope and construction of the order of reference becomes relevant. The construction of the order of reference will, in all probability, be easy or difficult, according as the document has been skilfully or carelessly drawn. In India Paper Pulp Company Limited [1949 (1) LLJ 258] the Federal Court was concerned with a proposition as to whether the order of reference can be construed by an adjudicator. Chief Justice Kania, speaking for the Court, said that not infrequently, the orders of reference are "far from satisfactory and are not carefully drafted". It is, therefore, desirable that the appropriate Government should frame such orders carefully and the question which are intended to be tried by the adjudicator should be so worded as to leave no scope for ambiguity or controversy. Same proposition of law was laid by the Apex Court in Delhi Cloth and General Mills Limited [1967 (I) LLJ 423]. In accuracy of language employed in the order of reference, however, does not always make any difference to the jurisdiction of the Tribunal to proceed with the reference and adjudicate upon it, as the Tribunal can interpret and find out the real meaning of the order of reference, as it stands. A duty is cast upon the Tribunal to make an attempt to construe order of reference to find out as to what was the real dispute which was referred to it and to decide it and not to throw it out on a mere technicality. Law to this effect was laid by the Apex Court in Express Newspaper Limited [1962 (11) LLJ 227]. Reference can also be made to the precedent in Management of Barpukhurie Tea Estate [1978 (I) LLJ 558] and Minimax Limited [1968 (I) LLJ 369].

11. When phraseology of order of reference is inelegant, the Tribunal should look to the substance rather than to the form of the order of reference. In construing terms of the order of reference and determining the scope and nature of the points referred, the Tribunal has to look into the order of reference itself. Therefore, it is clear that where the order of reference is vague or cryptic, the tribunal may cull out the real question by construing

its phraseology. In C.P.Sarathy [1953(1)LLJ 174] the Apex Court ruled that when order of reference is not clear the Tribunal may crystallise the terms of reference from the statements of the respective cases of the parties. In Delhi Cloth and General Mills Limited (supra) the Apex Court candidly laid that "the Tribunal must, in any event, look to the pleadings of the parties to find the exact nature of the dispute, because in most cases the order of reference is so cryptic that it is impossible to cull out there from the various points about which the parties were at variance, leading to the trouble". From above proposition of law laid it is evident that the Tribunal is competent to construe the terms of reference, when it is vaguely worded and can ascertain the real dispute between the parties even from its pleadings. The ambiguity in the reference order can be removed by the Tribunal, out of the pleadings of the parties. Exact date of termination of service of the claimant is 14-1-2003 and wrong narration of it in the reference would not make adjudication process incompetent. Issue is answered, accordingly.

Issue No. 3

12 & 13. In its written statement, Vidyalaya raised objections to the effect that this Tribunal has no jurisdiction to entertain the dispute, in view of the provisions of Administrative Tribunal Act, 1985. Though no issue was settled on this proposition, since findings were recorded in order dated 07-07-2011 against the Vidyalaya in that regard. Even otherwise it is thought expedient to deal the issue again herein. Section 28 of the Administrative Tribunal Act, 1985, excludes jurisdiction of all courts to deal with the matters relating to, recruitment and concerning recruitment to any service or post or service matters concerning members of any service or persons appointed in service or post, except the Supreme Court and Tribunal constituted under the Industrial Disputes Act, 1947 (in short the Act) or any other corresponding law for the time being in force. For the sake of convenience, provisions of Section 28 of the aforesaid Act are extracted thus :

> "28. Exclusion of jurisdiction of courts except the Supreme Court :
>
> On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post.
>
> No court except—
>
> (a) the Supreme Court; or
>
> (b) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law for the time being in force,
>
> shall have or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters."

14. The above provisions make it clear that the jurisdiction of this Tribunal is saved to entertain matters relating to recruitment or concerning recruitment to any service or post or service matters concerning members of any service or persons appointed to any service or post. Thus it does not lie in the mouth of the Vidyalaya to claim that this Tribunal has no jurisdiction to entertain the present matter. Resultantly, objection raised by the Vidyalaya in that regard is brushed aside.

15. Now, I would turn to the factual matrix. As unfolded by the claimant, he was serving with the Vidyalaya as a gardener. His services were dispensed with on 15-01-2002. He raised an industrial dispute before the Conciliation Officer and settlement was arrived at between the parties. In pursuance of the said settlement, he was re-engaged with effect from 14-11-2002. Facts unfolded by Shri Maurya are not disputed by Shri Garg in that regard. In his affidavit Ex,.MW1/A, Shri Garg declares that the claimant was engaged as daily wage worker. He asserts that he was not appointed against a permanent vacancy. He was advised not to report for duty on 15-01-2002. He raised an industrial dispute and a settlement was arrived at between the parties before the Conciliation Officer, terms of which settlement are reproduced hereunder :

> "1. It is agreed by the management that they will engage the workman, Shr Baij Nath. Mourya, as daily paid worker with effect from 15-11-2002.
>
> 2. It is further agreed by the management that past service rendered by the workman during the year 2001 will be considered for the purpose of regularization of service against the permanent post.
>
> 3. It is agreed by the. workman, Shri Baij Nath Maurya that he will not claim back wages.
>
> 4. It is further agreed by the workman that he will not raise the dispute on the issue involved in the instant dispute before any other forum henceforth"

16. Claimant was re-engaged on 14-11-2002 and his services were dispensed with on 14-11-2003., which facts are detailed by him and reaffirmed by Shri Garg in his testimony. Therefore, it is emerging over the record that the claimant rendered continuous service with the Vidyalaya from 14-11-2002 to 14-11-2003. Past service rendered by him during the year 2001 was to be considered for the purpose of regularisation of his service, in pursuance of terms of settlement referred above. Question of consideration comes as to whether claimant rendered

continuous service of one year with the Vidyalaya. For an answer to this proposition, it would be ascertained as to what phrase "continuous service" means. "Continuous service" has been defined by Section 25-B of the Industrial Disputes Act, 1947 (in short the Act). Under sub-section (1) of the said Section, "continuous service for a period" may comprise of two periods viz. (i) uninterrupted service, and (ii) interrupted service on account of (a) sickness, (b) authorized leave, (c) an accident, (d) a strike which is not legal, (e) a lock-out, and (f) a cessation of work that is not due to any fault on the part of the workman, shall be included in the "continuous service." Sub-section (2) of the said Section introduces a fiction to the effect that even if a workman is not in "continuous service" within the meaning of clause (1) for a period of one year or six months, he shall be deemed to in continuous service for that period under an employer if he has actually worked for the days specified in clauses (a) and (b) thereof. In Vijay Kumar Majoo (1968 Lab.I.C.1180) it was held that one year's period contemplated by sub-section (2), furnished a unit of measure and if during that unit of measure the period of service actually rendered by the workman is 240 days, then he can be considered to have rendered one year's continuous service for the purpose of the Section. The idea is that if within a unit period of one year a person had put in at least 240 days of service, then he must get the benefit conferred by the Act. Consequently, an enquiry has to be made to find out whether the workman actually worked for not less than 240 days' during the period of 12 calendar months immediately preceding the retrenchment.

17. In Ramakrishna Ramnath [1970(2) LLJ 306], Apex Court announced that when a workman renders continuous service of net less than 240 days in 12 calendar months, he is deemed to have completed one year's service in the industry. It would be expedient to reproduce observations made by the Apex Court in that regard, which are extracted thus :

> "Under Section 25B a workman who during the period of 12 calendar months has actually worked in an industry for not less than 240 days is to be deemed to have completed One year's service in the industry. Consequently an enquiry has to be made to find out whether the workman had actually worked for not less than 240 days during period of 12 calendar months immediately preceding the retrenchment. These provisions of law do not show that a workman after satisfying the test under Section 25B has further to show that he has worked during all the periods he has been in the service of the employer for 240 days in the year."

18. When the workman concerned fails to establish that he worked for atleast 240 days in the year, he cannot claim protection against termination of his services in order to seek regularization of his services on monthly salary with benefits like pension, gratuity etc. Interruption of service occurred during the course of job has to be included in uninterrupted services. Fiction under section 25B of the Act will operate if workman has actually worked for 240 days in a calendar year. The explanation appended to the section specifically includes the days on which workman was laid off under an agreement or he has been on leave with full wages, or he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment and in the case of a female, maternity leave, under the expression 'actually worked' used under sub-section (2) of Section 25 B of the Act. Question for consideration comes as to whether the words "actually worked" would not include holidays, Sundays and Saturdays for which full wages are paid. The Apex Court was confronted with such a proposition in American Express Banking Corporation [1985 (2) LLJ 539]. It was ruled therein that the expression 'actually worked under the employer' cannot mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. Court ruled that Sundays and other holidays, would be comprehended in the words "actually worked" and it countenanced the contention, of the employer that only days which are rnentioned in the explanation should be taken into account for the purpose of calculating the number of days on which the workman had actually worked though he had not so worked and no other days. The court observed that the explanation is only clarificatory, as all explanations are, and cannot be used to limit the scope of the main provision. Precedent in Lalappa Lingappa [1981 (1) LJ 308] was distinguished by the Apex Court in the case referred above. The precedent was followed in Standard Motor Products of India Ltd. [1986 (1) LJ 34]. Thus, it is crystal clear from the law laid above that Sundays and holidays shall be included in computing continuous service under Section 25B of the Act.

19. As detailed above, service of the claimant was disengaged by the Vidyalaya at first spell on 30-01-2002. He rendered continuous service for a period of 281 days in the preceding 12 months from that date. He was reengaged on 14-11-2002, in terms of settlement arrived at before the Conciliation Officer. His services were again dispensed with on 14-11-2003. During this period, he is shown to have served only for a period of one month and six days. Question would emerge as to whether the earlier period, which is to be taken into consideration, by the Vidyalaya for regularization would be reckoned with the second spell. As projected above, period of interrupted service, detailed in sub-section (1) of Section 25B of the Act, would also be taken into consideration.

Those periods of interrupted service are:

(a) Sickness

(b) Authorised leave

(c) An accident

(d) A strike which is not illegal

(e) A lockout, and

(f) A cessation of work that is not due to any fault on part of the workman, shall be included in the 'continuous service'.

20. Shri Garg presents that the claimant was re-engaged on 14-11-2002 and his services were disengaged on 14-11-2003. He places reliance on attendance record and receipts of payments made to the claimant to explain the period for which the claimant worked with the Vidyalaya. Documents, which are Ex.MW1/1 to Ex.MW1/24, are not disputed by the claimant. When these documents are perused, it came to light that claimant was engaged for the first time by the Vidyalaya in November 2000. He served upto 16-01-2002, when his services were dispensed with. When abave documents are scrutinized, it emerged that in preceding 12 months from the date of his disengagement, the claimant rendered 281 days service with the Vidyalaya.

21. As admitted by Shri Garg, claimant was re-employed 14-11-2002. From 30-01-2002, till 14-11-2002 it was a situation of cessation of employment not due to any fault of the claimant. Therefore, this period is to be reckoned as a part of continuous service. Law to this effect was laid by the Karnataka High Court in Honnayya [1958 (II) LLJ 487], wherein it was observed that "it would be a travesty of law to say that if a persen is given work for a few days in a year by an employer, either as a leave substitute or to meet the extra work arising out of any occasion, the rest of the days on which no work is given does not amount to 'cessation of employment' within the meaning of Section 25-B(1) and that the workman must be deemed to be in continuous service of such employer is pertinent". When this interrupted period, which was cessation of employment, is reckoned, it would emerge that in the year 2002, the claimant had rendered centinuous service of 240 days.

22. No notice or pay in lieu thereof was given to the claimant by the Vidyalaya, not to talk of retrenchment compensation. Whether termination of services of claimant amounts to retrenchment? For an answer, definition of the term "retrenchment" is to be construed. Clause (oo) of Section 2 of the Act defines "retrenchment". For the sake of convenience, the said definition is extracted thus :—

> "(oo) "retrenchment" means the termiration by the employer of the services of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include :—
>
> (a) voluntary retirement of the workman; or
>
> (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
>
> (bb) termination of the services of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such cantract being terminated under a stipulation in that behalf contained therein; or
>
> (c) terminati.on of the services of a workman on the ground of continued ill-health".

23. Definition of retrenchment is very wide and in two parts. The first part is exhaustive, which lays down that retrenchment means the termination of the service of a workman by the employer "for any reason whatsoever" otherwise then as a punishment inflicted by way of disciplinary action. Thus main part of the definition itself excludes the termination of service, as a measure of punishment inflicted by way of disciplinary action from the ambit of retrenchment. The second part further excludes (i) voluntary retirement of the workman, or (ii) retirement of workman on reaching the age of superannuation, or (iii) termination of the service of a workman as a result of non-renewal of contract of employment, or (iv) termination of contract of employment in terms of a stipulation contained in the contract of employment in that behalf, or (v) termination of service on the ground of continued ill health of the workman. Reference can be made to the precedents in Avon Services (Production Agencies) (Pvt.) Ltd. [1979 (I) LLJ 1] and Mahabir [1979 (II) LLJ 363].

24. Whether provisions of retrenchment, enacted in the Act, provide for any security of tenure? Answer lies in negative. Provisions of retrenchment provide for certain benefits to a workman in case of termination of his service, falling within the ambit of definition of retrenchment. On compliance of the requirements of Sections 25F or 25N and 25G of the Act, it is open to the employer to retrench a workman.

25. Provisions of Section 25F of the Act puts an embargo on an employer not to retrench services of his employee who has been in continuous service for not less than one year, until one month notice or pay in lieu thereof and retrenchment compensation for every completed year of continuous service is paid. Obviously, retrenchment compensation was not paid to the claimant in terms of Section 25F of the Act. Therefore, action of the Vidyalaya is violative of Section 25 F of the Act and cannot be held to be legal and justified.

26. Since disengagement of the claimant was in violation of provisions of Section 25-F of the Act, he is entitled to reinstatement in service. However, no cogent evidence has been brought over the record by the claimant to the effect he is unemployed since the date of termination of his service. The claimant pleads that he remained unemployed after termination of his services. He nowhere unfolds as to what steps were taken by him to gain employment. The Vidyalaya had also not offered any evidence relating to his gainful employment.Thus it is apparent that the parties had not offered any evidence to record, a finding relating to gainful employment or unemployment of the claimant during the period of such interregnum. These facts make me to comment that grant of full back wages would amount to grant of bonanza to the claimant. On the other hand the Vidyalaya cannot be given a premium for its illegal acts. Considering all these facts. it is ordered that the claimant is entitled to 25 percent of his back wages for the period of interregnum.

Relief

27. In view of the reasons detailed above, it is clear that the claimant is entitled to reinstatement in service of the Vidyalaya as daily wager gardener; with continuity of service, 25 percent of back wages and all consequential benefits. In case a regular vacancy exists or when it arises in future, case of the claimant shall be considered for absorption in service by the Vidyalaya, in consonance with the terms of settlement, referred above. An award, is accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 24-12-2012

नई दिल्ली, 24 जनवरी, 2013

का.आ. 452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-I, नई दिल्ली के पंचाट (संदर्भ संख्या 214/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-22011/45/2008-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 24th January, 2013

S.O. 452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 214/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. I, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India, Zonal Office (North), and their workmen, which was received by the Central Government on 24-01-2013.

[No. L-22011/45/2008-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, KARKARDOOMA COURTS COMPLEX, DELHI

ID No. 214/2011

The General Secretary,
Food Corporation of India (Handling)
Workers' Union,
8654, Arakshan Road,
New Delhi - 110055. ...Workman

Versus

The General Manager (Region),
Food Corporation of India,
Regional Office, DDA Complex.
Rajendra Place,
New Delhi-110008. ...Management

AWARD

A Mandal working in Gang No. 3, Departmental Labour, Ghevra Depot, Food Corporation of India (in short the Corporation) was promoted to the post of Sardar by the Area Manager, Shakti Nagar, Delhi. While promoting the Mandal to the post of Sardar, the Area Manager had not taken into consideration depot wise seniority. As such, promotion of Mandal to the post of Sardar was cancelled by the Manager, Shakti Nagar, Delhi, on the next day. Aggrieved by the order of cancellation of his promotion, the Mandal approached the Food Corporation of India Handling Workers' Union (hereinafter referred to as the Union) for redressal of his grievance. The Union raised a demand for cancellation of order dated 18.12.2007, on the strength of which promotion of Mandal to the post of Sardar was rescinded. Since the demand was not conceded to by the Corporation, Union raised an industrial dispute Corporation contested the claim and as such conciliation proceedings ended into failure. On consideration of failure report, submitted by the Concilliation Officer, the appropriate Government referred the dispute to Central Government Industrial Tribunal No. 2, New Delhi for adjudication, vide order No.L-22011/45/2008-IR(CM-II) New Delhi dated 20-08-2008 with following terms:

> "Whether action of the management of FCI in cancelling order of promotion of Shri Sanjay Paswan from mandal to sardar with effect from 24-12-2007 is legal and justified? To what relief is the workman entitled?"

2. Claim statement was filed by the Union pleading that for execution of work of procurement, storage, preservation, segregating, weighment, standardisation, transportation and distribution of food grains through public distribution system in the entire country, the Corporation deploys food handling workers in categories of departmental labour, direct payment system, no work no pay system and management committee system. Workmen of all above categories are employees of the Corporation. Under the categories of departmental labour and direct payment system, group of workers work in gangs. One gang consists of one Sardar, one Mandal and 12 handling labours. Sardar, Mandal and handling labours are placed in different grades. Post of Sardar is to be filled by way of promotion from the post of Mandal and post of Mandal form amongst the handling labours. Apart from above classification of categories, another category of ancillary labour also exists, which does not form part of the gang system.

3. The Union pleads that at Ghevra Depot of the Corporation, departmental labours work for handing food grains. Departmental labour work there in gang system. Shri Sanjay Paswan works as Mandal in gang No. 3 at the said Depot of the Corporation. He rendered meritorious service to the Corporation with complete dedication. He earned appreciation certificates from his superiors, who had recommended his promotion to the post of Sardar from time to time. His meritorious services were taken into consideration when he was promoted to the post of Sardar, vide letter dated 17-12-2007, issued by the Area Manager, Shakti Nagar, Delhi. The Area Manager has issued that order with the approval of the Competent Authority. The General Manager (Region) is the Competent Authority for approval of such promotions. Shri Paswan resumed his duties as Sardar in afternoon of 17-12-2007. He performed his duties as such; which fact emerged out of booking cum work slips dated 17-12-2007 and 18-12-2007. Shri Paswan fell sick and remained on leave upto 23-12-2007. On 24-12-2007, he approached Ghevra Depot to resume his duties. He was not allowed to resume his duties on the post of Sardar. He was told that he should receive order of cancellation of his promotion and thereafter resume duties on the post of Mandal. Order dated 18-12-2007 cancelling order of his promotion was issued by the Manager, Shakti Nagar, Delhi. Cancellation of his order of promotion is unfair and illegal. Order dated 18-12-2007 does not contain any reason for cancellation of his promotion.

4. Union projects that promotion of Shri Paswan was done on consideration of meritorious service. It was out of turn promotion on overall assessment of his performance, as an incentive of his past services. One Shri Balram Giri was also promoted in the same manner on 11-11-93. It has been claimed that the order dated 18-12-2007, which tantamounts to reversal of Shri Paswan to the post of Mandal may be declared illegal. The Union claims that an award may be passed in favour of Shri Paswan declaring him to be Sardar with effect from 17-12-2007 with all consequential benefits.

5. The Corporation presents in its written statement that workers, working under "no work no pay system" are not employees of the Corporation. Claim made by the Union in that regard is unfounded. Promotions of workmen are to be made in consonance with provisions of certified standing orders, circulars and instructions issued by the Corporation from time to time. Circulars No. 7/06 and 11/07 were issued in that regard. Memorandum of settlement was arrived at between the Corporation and the Union on 17-11-2006, wherein it was agreed that depot-wise seniority may be maintained for the purpose of promotion and instructions were issued in that regard, vide letter dated 11-12-2007. Promotion of Shri Sanjay Paswan from the post of Mandal to that of Sardar was made without following due procedure and without taking prior approval of the Competent Authority. Senior Regional Manager is vested with the power of recruitment and promotion of any class III employee. Since promotion of Shri Paswan was illegal and contrary to circulars and instructions, mistake was immediately corrected and order dated 18-12-2007 was issued by the Competent Authority. Order dated 17.12.2007 was withdrawn by the Corporation in accordance with settlement and instructions issued from time to time. Since depot wise seniority was not taken in to consideration, promotion of Shri Sanjay Paswan to the post of Sardar was illegal. Shri Sanjay Paswan was not eligible for promotion to the post of Sardar. No illegality was committed when order dated 18-12-2007 was issued. Claim put forth by the Union may be dismissed, being devoid of merits, pleads the Corporation.

6. Vide order No.Z-22019/6/2007-IR(CM-II), New Delhi dated 30-03-2011 the appropriate Government transferred the case to this Tribunal, for adjudication.

7. Shri Sanjay Paswan entered the witness box to substantiate the claim. Shri M.M.Bhatnagar, Area Manager, unfolded facts on behalf of the Corporation. No other witness was examined by either of the parties.

8. Arguments were heard at the bar. Shri S.P. Peepal, assisted by Shri G.C. Nigam, authorised representative, advanced arguments on behalf of the Union. Shri Om Prakash, authorised representative, raised submissions on behalf of the Corporation. Written submissions were also filed on behalf of the Union. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows :

9. Shri Sanjay Paswan unfolds in his affidavit Ex.WW1/A, tendered as evidence, that he was working as Mandal in gang No.3, Ghevra Depot of the Corporation. His meritorious services were recognized by his superiors and as such they issued appreciation letters in his favour. Depot Officer recommended his name for promotion to the post of Sardar, vide letter datea 04-12-2007. His case was considered and he was promoted as Sardar (deployment), vide letter dated 17-12-2007 after due approval from the Competent Authority. Consequent on his promotion, he assumed charge of the post of Sardar in afternoon of 17-12-2007. He discharged his duties as such on 18-12-2007. Thereafter he proceeded on medical leave. On 24-12-2007, when he came to resume his duties, he was not allowed to resume duties on the post of Sardar. He was compelled to receive cancellation order of his promotion. During course of cross examination, he concedes that on 20-11-2007 circular Ex.WW1/M2 was issued. He disputes that the Area Manager was not competent to promote him.

10. Shri M.M. Bhatnagar details in his affidavit Ex.MW1/A, tendered as evidence, that circulars No.7/2006 and 11/2007 were issued by the Corporation. Memorandum of Settlement was arrived at between the Corporation and the Union on 07-11-2007, where in it was agreed that depot-wise seniority would be maintained for promotion. Instructions to this effect were issued vide letter dated 11-12-2007. So called appreciation letters, issued in favour of Shri Paswan, would not entitle him for promotion, since he was not eligible for the same. Area Manager, Shakti Nagar, Delhi, had promoted him, without following due procedure and that too without approval of the Competent Authority. Since his promotion was illegal, it was immediately withdrawn on 18-1-2007 by the Competent Authority. Corporation acted fairly, when order dated 18-12-2007 was issued. During course of his cross examination, he details that promotion of Shri Paswan was to be made on depot-wise seniority. Since it was not so done, he rescinded his promotion on instructions of his superiors.

11. When facts unfolded by Shri Sanjay Paswan and Shri M.M. Bhatnagar are appreciated, it came to light that Shri Paswan was working as Mandal in gang No.3, Ghevra Depot, Delhi, in December 2007. His services as Mandal were appreciated by superiors and various appreciation letters were issued in his favour in that regard. In appreciation letters, which are Ex.WW1/1 to Ex.WW1/6, his promotion to the post of Sardar has been recommended. Circular No.7 of 2006 was issued by the Corporation detailing therein that depot-wise seniority would be maintained for promotion from the post of Mandal to the post of Sardar. This circular was assailed by the Union and a call of strike was given. Conciliation Officer entered into conciliation proceedings and during the course of conciliation, settlement dated 07-11-2007 was arrived at between the parties. In consonance of the said settlement, circular No.11/2007 was issued. Thus, it is evident that on the strength of settlement dated 07-11-2007, it was decided between the parties that for the purpose of promotion depot wise seniority would be maintained.

12. Question for consideration would be as to whether promotion of Shri Paswan was in consonance with settlement dated 07-11-07 and circular No.11 of 2007 issued on 20-11-2007? For an answer to this proposition, evidence adduced by the parties is to be construed again. Shri Bhatnagar declares that promotion of Shri Paswan was not in consonance with circulars and instructions issued by the Corporation from time to time. He lays emphasis on circular No.7/06 dated 23-2-2006 and circular No.11/07 dated 20-11-2007. He further details that memorandum of settlement was arrived at between the Corporation and the Union on 07-11-07 wherein it was agreed that depot-wise seniority would be maintained for the purpose of promotion. His testimony has not been assailed on above counts, when he faced rigors of cross examination. Even otherwise, in his testimony, Shri Paswan nowhere claims that he was eligible for proportion on depot-wise seniority basis. Thus, it is evident that promotion of Shri Paswan was not based on depot-wise seniority.

13. Settlement dated 07-11-2007 was arrived at between the parties during the course of conciliation proceedings. This settlement binds the parties in respect of terms agreed therein. When contents of the settlement, which has been proved as Ex.MW1/6, are appreciated, it came to light that it was agreed between the parties that promotion was to be made on depot-wise seniority. For sake of convenience, relevant portion of the settlement is extracted thus:

"It is agreed by and between the parties that :

i. The existing promotion policy of gang wise seniority based on bilateral settlement dated 24-05-1984 will be replaced by depot wise seniority for the purpose of promotion. The merger/ re-organization of labour gangs will be made as per this settlement.

ii. The promotion cases already done finalized to the posts of mandal/sardar during the intervening period, i.e between 24-02-2006, the date of issue of circular No.7/200 from file No.IR (L/4)54/2 and the date of signing of this settlement will not be reviewed in order to avoid administrative problems. Further promotion in departmental and DPS categories of labour will be settled/done on the basis of depot wise seniority.

Any case/dispute relating to promotion of specific worker under Departmental and DPS

category pending as present before any CGIT, High Court and Dy. CLC at Bhubaneshwar shall remain out of purview of this settlement.

iii. Henceforth, depot wise seniority will be maintained for the purpose of promotion in departmental and DPS category of labour

iv. Merger reorganisation of labour gangs will be done breaking the last number of gang of the depot first and process should proceed further in descending order.

v. Left over sardars, mandals, and handling workers after merger reorganization of full labour gangs will be kept in 'Leave Reserve Pool' subject to depot-wise seniority. The leave reserve pool workers will be utililzed strictly against leave/ casual vacancy and in the regular gangs against the further vacancy on the basis of depot-wise seniority, as per clause (iii) and (iv) of Circular No.7/2000 dated 23/24-02-2000.

vi. It is agreed that parties will not raise any dispute covered under this settlement in future.

vii. This agreement will come into effect from the date of signing of the same."

14. In terms of settlement referred above, circular No.11/07 was issued on 20-11-2007 wherein it was mentioned that modified instructions shall come into force with effect from 07-11-2007. Thus, it is evident that from 07-11-2007 challenge, made by the Union against circular No.7/06, stood subsided. On the strength of circular 7/06 which was reaffirmed in settlement dated 07-11-2007, it stood decided that promotion would be governed on depot-wise seniority basis. Thus it is crystal clear that promotion of Shri Paswan could be made to the post of Sardar on depot-wise seniority and not otherwise.

15. Whether settlement dated 07-11-2007, proved as Ex.MW1/6 binds the Union and the claimant? As deposed by Shri Bhatnagar, settlement Ex.MW1/6 was arrived at during the course of conciliation proceedings, which has become enforceable. Such a settlement shall be binding on all the parties specified in clauses (a), (b), (c) and (d) of sub-section (3) of section 18 of the Industrial Disputes Act, 1947 (in short the Act). When a settlement is arrived at under section 18 (3) of the Act, it will be binding on all the workmen of the establishment. If that be so, what is the effect of a settlement entered into by the management with one of the union representing the majority of the workmen employed by the management and concerned in the dispute? Would that settlement bind the other union and workmen of the establishment? When an establishment has more than one union and there is trade union rivalry, possibility of those entering into negotiation in respect of certain demands cannot be ruled out. It also happens that negotiations with one union in the course of conciliation proceedings may be succeeded and end in a settlement. While answering the question as to whether the settlement would bind the workmen of other union, the Apex Court held in Ramnagar Cane and Suger Co. Ltd. [1961 (1) LLJ 244] that such a settlement will bind the workmen of other union. Such a question came up for consideration in Buckingham and Carnatic Co. [1964 (1) LLJ 253] before Madras High Court. The point for consideration in that case was whether the employee's union, the petitioner in that case, was competent to raise an industrial dispute in respect of a matter which was settled by a conciliation settlement by the management with another union recognized by the management. After referring to the decision of the Apex Court in Ramnagar Cane and Sugar Co. Ltd. (supra) the High Court came to the conclusion that it was open to the management to enter into a settlement with the union representing the majority of workmen and that such a settlement will bind the other union as well as other workmen who were in employment or subsequently came in employment in the establishment.

16. A settlement arrived at otherwise than in the course of conciliation proceedings between the management and the union stand or different footing than the settlement arrived at during the course of conciliation proceedings. For an example, if an industrial establishment has two unions, say "A" and "B", an agreement otherwise than in the course of conciliation proceedings between the management and workers of union "A" will be binding on the management and workers of union "A" only. But a settlement "arrived at in the course of conciliation proceedings" will be binding on all the members of the other union who were not parties to the agreement as well as by virtue of Section 18(3)(d) of the Act. See Britannia Biscuit Co. Ltd. Employees Union [1984 (1) LLJ 349]. Relying above law, it is concluded that settlement Ex.MW1/6 not only binds the Union but the claimant also. He cannot repudiate it.

17. Admittedly, his promotion was not based on depot-wise seniority. Hence, it is evident that his promotion was contrary to the settlement and instructions issued in pursuance thereof by the Corporation. In such a situation, correction of mistake by the Corporation, by way of issuance of letter dated 18-12-2007, cannot be held to be illegal or unjustified. Appreciation letters, issued in favour of Shri Sanjay Paswan, may make his claim probable for promotion but cannot override terms of settlement arrived at on 07-11-2007. Thus no justification lies in favour of the Union to claim that the Corporation was not competent to rescind order of promotion, issued in favour of Shri Sanjay Paswan on 17-12-2007. Action of the Corporation is found to be legal and justified. Neither the Union nor Shri Paswan is entitled to any relief.

18. In view of the foregoing reasons, it is concluded that action of the Corporation in cancelling promotion order of Shri Sanjay Paswan was legal and justified. Claim put forth by the Union is not sustainable. Same is, therefore, brushed aside. An award is passed in favour of the Corporation and against the Union.

Dr. R. K. YADAV, Presiding Officer

Dated : 13-12-2012

नई दिल्ली, 24 जनवरी, 2013

का.आ. 453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. ए. एम. पी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या-1, नई दिल्ली के पंचाट (संदर्भ संख्या 74/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-42012/228/2002-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 24th January, 2013

S.O. 453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2011) of the Central Government Industrial Tribunal No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of National Anti-Malaria Programme Ministry of Health, and their workmen, received by the Central Government on 24-01-2013.

[No. L-42012/228/2002-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, KARKARDOOMA COURTS COMPLEX, DELHI

ID No. 74/2011

Shri Satya Narain
S/o Sh.Rameshwar Singh
R/o N-64/106, Indra Basti,
Timar Pur,
Delhi - 110054. ...Workman

Versus

The Director,
National Anti-Malaria Programme,
Ministry of Health,
22, Sham Nath Marg,
Near I.P.College,
Delhi-110054. ... Management

AWARD

National Anti Malaria Programme (now known as National Vector Borne Disease Control Programme) is being run by Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi. Shri Satya Narain was engaged by the Director, .National Anti Malaria Programme, Delhi, as a casual employee in September 1998. His services were taken intermittently, in case of exigencies. In the year 2000, he rendered 209 days services with the management. On 1st of September, 2001, his services were disengaged. He raised a demand for reinstatement. When his request was not conceded to, he filed a claim statement before the Conciliation Officer. Since conciliation proceedings failed, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-42012/228/2002-IR(CM-II), New Delhi, dated, 05-03-2003, with following terms :

> "Whether the action of the Director, National Anti Malaria Programme, discontinuing the services of Shri Satya Narain, Casual Labour/mali w.e.f. 01-09-2001 is legal and justified? If not, to what relief the workman is entitled to and from which date?"

2. Claim statement was filed by Shri Satya Narain pleading therein that he was employed by the management for the first time in September 1998. He was engaged for a period of 89 days, which period was extended till 31-03-1999. Thereafter, his services were illegally terminated by the management. However, he was engaged again on 01-05-1999. He continuously worked with the management for a period of 33 months and thereafter his services were again illegally terminated with effect from 01-09-2002. No notice or pay in lieu thereof was given to him. Disengagement of his service was in violation of provisions of labour laws. He raised a demand for reinstatement in service but it was not conceded to by the management. He claims that action of the management may be declared illegal and he may be reinstated in service with continuity and full back wages.

3. Claim was demurred by the management pleading therein that he was engaged as a casual labour for rendering job of mali. Job against which the claimant was engaged was of casual in nature. Claimant was engaged with effect form 12-05-1999 and not from 01-05-1999, as claimed by him. Since the work came to an end, his services could not be continued. Claim put forward by the claimant that he continuously worked with the management for a period of 33 months, is uncalled for. He was engaged for seasonal job and not against any vacant Group "D" post. When requirement came to an end, he was not engaged any further. There was no occasion for the management to give notice or pay in lieu thereof. Claim put forward is uncalled for. It may be dismissed, being devoid of merits, pleads the management.

4. On pleadings of the parties, following issues were settled by my learned predecessor :

1. Whether the services of the workman were engaged for doing the job of casual or seasonal nature? If so, its effect.

2. As in terms of reference.

5. Vide order No. Z-22019/6/2007-IR(C-II) New Delhi dated 11-02-2008, case was transferred to Central Government Industrial Tribunal No.II, New Delhi by the appropriate Government, for adjudication. It was retransferred to this Tribunal for adjudication by the appropriate Government vide order No. Z-22019/6/2007-IR(C-II), New Delhi, dated 30-03-2011.

6. Claimant has examined himself in support of his claim. Shri G. .D. Khulbe, Administrative Officer, entered the witness box to rebut facts presented by the claimant. No other witness was examined by either of the parties.

7. Arguments were heard at the bar. Shri Mohammad Sohail, authorised representative, advanced arguments on behalf of the claimant. Shri M. P. Singh, authorised representative, raised submissions on behalf of the management. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

Issue No. 1

8. In his affidavit dated 11-8-2005, tendered as evidence, claimant swears that he was appointed as a casual labour for a period of 89 days in September 98 by the management. His services were extended till 31-0-1999. Thereafter his services were dispensed with. He protested against that arbitrary action. After a gap of one month, he was again engaged with effect from 01-05-1999. Initially, he was engaged on daily wage of Rs. 82.30 which was later on increased to Rs. 111.35 per diem. During course of his cross examination, he projects that he was appointed as peon but had to work as a mali. His job was to weed out grass and look after the plants.

9. In affidavit Ex.MW1/A, tendered as evidence, Shri Khulbey swears that the claimant was engaged on daily wage basis for work of mali. The job, against which he was engaged, was of seasonal in nature and lasted for a short period. He concedes that the name of the claimant was sponsored by the employment exchange as casual labour for a period of 89 days. He was engaged in case of exigency.

10. When facts unfolded by the claimant as well as Shri Khulbey are appreciated, it came to light that the claimant was engaged for casual jobs. He was engaged to uproot grass. Though the claimant tried to agitate that he was engaged as peon, but he conceded that work of mali was taken from him. According to the claimant, he used to weed out grass and look after the plants. On the other hand, management projects that he was a casual employee engaged in cases of exigencies only. Out of facts referred above, it nowhere emerges over the record that the claimant was engaged against any regular post.

11. Work of seasonal in nature would certainly appear to imply dependence on nature, over which obviously neither the employer nor the employees, in a given industrial establishment, has any control. Period of work in a normal year, in a given industrial establishment, is another factor to ascertain as to whether the work performed was of seasonal in nature. Whether the period of work is controlled by seasonal conditions, would be a factor for consideration, yet another factor relevant is the pattern of employment of labour in that industrial establishment. Even when particularly no work could be carried on in an industrial establishment, when seasonal conditions necessitated virtual stoppage of work, a skeleton establishment will necessarily have to be kept on. A body of workers, who are working only for a particular season of the year, in an industrial establishment would be termed as "seasonal employees". A seasonal workman is engaged in a job which lasts during a particular season only, while a temporary workman may be engaged either for a work of temporary or casual nature or temporarily for work of a permanent nature, but a permanent workman is one, who is engaged in a work of permanent nature only. A distinction between the permanent workman engaged on a work of permanent nature and a temporary workman engaged on a work of permanent nature is, in fact, that a temporary workman is engaged to fill in a temporary need of extra hands of the permanent jobs. Thus when a workman is engaged on a work of a permanent nature which lasts throughout the year, it is expected that he would continue there permanently, unless he is engaged to fill in a temporary need. Therefore, a workman is entitled to expect permanency of his service. Law to this effect was laid by the Apex Court in Jaswant Sugar Mill [1991 (1) LLJ 649].

12. As per facts projected by the parties, National Anti Malaria Programme, now known as National Vector Born Disease Programme, is being run by Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi. Shri G. D. Khulby highlights that the claimant was engaged as casual labour for the work of Mali, for removing grass, which is of casual or seasonal nature for a short period and not of perennial nature. Accordingly, services were not required after the period for which he was engaged. Work of Mali was not depending on nature which was beyond the control of the management. It was not such a work which may cease in a particular season or growup in other seasons. Vagaries of nature

were not to control the work. Work of mali may be taken priodically but not in a particular season. It may be a work of temporary nature. Therefore, engagement of the claimant as mali cannot be termed as engagement against seasonal work. The management has not been able to project that the claimant was engaged against a work of seasonal in nature. Issue is, therefore, answered in favour of the claimant and against the management.

Issue No. 2

13. Claimant presents in his claim that he was engaged as a peon against vacant post but he himself demolishes his case, when he testified that initially he was paid at the rate of Rs. 83.30 and subsequently his wages were increased to Rs. 111.55 per diem. Out of his own assertions, it is emerging over the record that the claimant was paid as daily wager. No evidence worth appreciation was projected by the claimant to show that he was engaged as a peon against a vacant post. Shri Khulbey asserts that he was engaged as a casual labour in case of exigencies. Therefore, it is evident that engagement of the claimant was as a casual labour. It is crystal clear that his engagement was not against any vacant post.

14. "Continuous Service" has been defined by section 25B of the Industrial Disputes Act, 1947 (in short the Act). Under sub-section (1) of the said Section, "continuous service for a period" may comprise of two period viz.(i) uninterrupted service, and (ii) interrupted service on account of (a) sickness, (b) authorized leave, (c) an accident, (d) a strike which is not legal, (e) a lock-out, and (f) a cessation of work that is not due to any fault on the part of the workman, shall be included in the "continuous service". Sub-section (2) of the said Section introduces a fiction to the effect that even if a workman is not in "continuous service" within the meaning of clause (1) for a period of one year or six months, he shall be deemed to in continuous service for that period under an employer if he has actually worked for the days specified in clauses (a) and (b) thereof. In Vijay Kumar Majoo (1968 Lab.I.C.1180) it was held that one year's period contemplated by sub-section (2) furnished a unit of measure and if during that unit of measure the period of service actually rendered by the workman is 240 days, then he can be considered to have rendered one year's continuous service for the purpose of the Section. The idea is that if within, a unit period of one year a person had put in at least 240 days of service, then he must get the benefit conferred by the Act. Consequently, an enquiry has to be made to find out whether the workman has actually worked for not less than 240 days during a period of 12 calendar months immediately preceding the retrenchment.

15. Claimant unfolds that he rendered continuous service from 01-05-99 till 01-09-2001. With a view to discharge onus resting on him and to substantiate his claim, he placed reliance on attendance record proved as Ex.MW1/W1 to Ex.MW1/W25. When these documents are closely perused, it came to light that from June 2001 to July 2000, the claimant served for 230 days, and from June 2000 to July 1999, he rendered 233 days service only. These, documents project that the claimant had worked for shorter period with the management. Periods, referred above, do not answer the standards of continuous service provided under section 25-B of the Act.

16. In Ramakrishna Ramnath [1970(2) LLJ 306], Apex Court announced that when a workman renders continuous service of not less than 240 days in 12 calendar months, he is deemed to have completed one years service in the industry. It would be expedient to reproduce observations made by the Apex Court in that regard, which are extracted thus :

> "Under Section 25B a workman who during the period of 12 calendar months has actually worked in an industry for not less than 240 days is to be deemed to have completed one year's service in the industry. Consequently an enquiry has to be made to find out whether the workman had actually worked for not less than 240 days during period of 12 calendar months immediately preceding the retrenchment. These provisions of law do not show that a workman after satisfying the test under Section 25B has further to show that he has worked during all the period he has been in the service of the employer' for 240 days in the year".

17. When the workman concerned fails to establish that he worked for atleast 240 days in the year, he cannot claim protection against termination of his services in order to seek regularization of his services on monthly salary with benefits like pension, gratuity etc. Interruption of service occurred during the course of job has to be included in uninterrupted services. Fiction under Section 25B will operate if workmen has actually worked for 240 days in a calendar year. The explanation appended to Section 25-B of the Act specifically includes the days on which workman was laid off under an agreement or he has been on leave with full wages, or he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment and in the case of a female, maternity leave, under the expression 'actually worked' used under sub-section 2 of Section 25 B of the Act. Question for consideration comes as to whether the words 'actually worked' would not include holidays, Sundays and Saturdays for which full wages are paid. Apex Court was comprehended with such a proposition in American Express Banking Corporation [1985(2) LLJ 539]. It was ruled therein that the expression 'actually worked under the employer', cannot mean those days only when the workman worked with hammer, sickle or pen, but must necessarily comprehend all those days during which he

was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing orders etc. Court ruled that Sundays and other holidays, would be comprehended in the words 'actual work' and its countenanced the contention of the employer that only days which are mentioned in the explanation should be taken into account for the purpose of calculating the number of days on which the workmen had actually worked though he had not so worked and no other days. The court observed that the explanation is only clarificatory, as all explanations are, and cannot be used to limit the expanse of the main provision. Precedent in Lalappa Lingappa [1981 (1) LJ 308] was distinguished by the Apex Court in the case referred above. The precedent was followed in Standard Motor products of India Ltd. [1986 (1) LJ 34]. Thus, it is crystal clear from the law laid above that Sundays and holidays shall be included in computing continuous service under Section 25B of the Act.

18. As detailed above, the claimant had not been able to establish that he rendered continuous service of 240 days in preceding 12 months from the date of his termination of his services. He could not establish that at any point of time he rendered continuous service of one year with the management. As such, claimant has not been able to acquire status of an industrial employee to seek benefit under the provisions of the Act. Section 25-F of the Act makes it apparent that in order to seek benefit under the said provision, an employee should render atleast 240 days continuous service in a calendar year. As the claimant had not rendered any continuous service of one year with the management in any of the calendar years, provisions of Section 25-F does not come into operation. He had not adduced any evidence to this effect that any junior to him was working, when his services were dispensed with. In such a situation, provisions of Section 25-G of the Act also does not come into play. No evidence worth name has brought that the management ever engaged someone else in the job of mali, after termination of his service. As such, provisions of Section 25 H of the Act also does not apply. In view of reasons detailed above, it is evident that the claimant is not entitled to any relief. Action of the management in not engaging the services of the claimant any further is legal and justified. Claim put forward is liable to be dismissed. His claim is brushed aside. An award is passed in favour of the management and against the claimant. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 29-11-2012

नई दिल्ली, 24 जनवरी, 2013

का.आ. 454.– औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 63/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-22012/147/2007- आई आर (सी एम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 24th January, 2013

S. O. 454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 63/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Monoharbahal Colliery of M/s. ECL, and their workmen, received by the Central Government on 24-01-2013.

[No. L-22012/147/2007-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : SRI JAYANTA KUMAR SEN, Presiding Officer

REFERENCE NO. 63 OF 2007

PARTIES :

The management of Monoharbahal Colliery, M/s. ECL, Burdwan

Vs.

The Gen. Secy., KMC, Asansol (WB)

REPRESENTATIVES :

For the management : Shri P. K. Goswami, Ld. Advocate

For the union (Workman) : Shri S. K. Pandey, Ld. Representative

Industry: Coal

State: West Bengal

Dated -20-12-2012

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/147/2007-I.R. (CM-II) dated 02-08-2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the managemeent of Monoharbahal Colliery of M/s. ECL in dismissing Sri Bikash Bouri w.e.f. 03-05-2004 is legal and justified? If not, to what relief is the workman entitled?"

Having received the Order of Letter No. L-22012/147/2007-I.R. (CM-II) dated 02-08-2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 63 of 2007 was registered on 14-08-07 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that Sri S.K. Pandey, Ld. Representative for the workman, submits that the workman Sri Bikash Bouri has already joined in service, so the case may be closed. Since the workman has already joined in service, it seems that he has now no more interest to proceed with the case. Hence, the case is closed and accordingly an order of "No Dispute Award" is hereby passed.

ORDER

Let an "Award" be and the same is passed as "No Dispute" existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 24 जनवरी, 2013

का.आ. 455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या-1, नई दिल्ली के पंचाट (संदर्भ संख्या 199/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-22012/18/2001-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 24th January, 2013

S.O. 455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 199/2011) of the Central Government Industrial Tribunal No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India, Zonel Office (North), and their workmen, received by the Central Government on 24-01-2013.

[No. L-22012/18/2001-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DELHI

ID No. 199/2011

The General Secretary,
Food Corporation of India Worker Union,
16 Ashoka Road,
New Delhi-110001. ...Workman

Versus

The Managing Director,
Food Corporation of India,
16-20, Barakhamba Lane,
New Delhi-11 0001. ...Management

AWARD

Fringe benefit, relating to cost of revenue stamp to be borne by Food Corporation of India (in short the Corporation) when employees were to receive their wages against duly stamped receipt, was granted in favour of departmentalized labour, vide bipartite agreement dated 23-05-1973. Another memorandum of settlement was signed on 24-05-1984 wherein it was reiterated that cost of revenue stamp would be borne by the Corporation, when employees would receive their wages against duly stamped receipt. Circular No.11/99 was issued on 23/26-07-1999 by the Corporation in that regard. In the year 2000, circular No. 6/2000 was issued on 14-01-2000, when the Corporation decided not to bear expenditure towards cost of revenue stamp, affixed on acquaintance rolls with effect from 01-04-2000. Aggrieved by the said circular, FCI Workers' Union (in short the union) raised a demand to recall it. When the demand was not conceded to, an industrial dispute was raised before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication vide order No.L-22012/18/2001-IR(CM-II), New Delhi dated 31-07-2001 with following terms:

"Whether the action of the management of Food Corporation of India in withdrawing the facility of bearing the cost of revenue stamps for the payment received by the workers of FCI in violation of Item No.10 of the Bipartite agreement dated 24-05-1973 is legal and justified? If not, to what relief workers are entitled to."

2. Claim statement was filed by the union pleading therein that an agreement was entered into between the Corporation and the union on 23-05-1973 wherein it was agreed that the Corporation shall make payment for work done by the workers on identification by sardars on

submission of duly receipted acquaintance rolls. Cost of revenue stamp was to be borne by the Corporation. Terms of settlement were put in operation. Similarly, memorandum of settlement was signed between the Corporation and the union on 24-05-84, wherein provisions for bearing cost of revenue stamps by the Corporation were made. The Corporation introduced direct payment system in Punjab region and signed bipartite agreement on 05-04-1995 in that regard. Circular No. 11/99 was issued on 23/26-07-99 wherein it was mentioned that on duly receipted acquaintance roll, cost of revenue stamp would be borne by the Corporation. Thus, cost of revenue stamp to be borne by the Corporation, on duly receipted acquaintance roll, became a condition of service. The Corporation unilaterally withdrew the fringe benefit of bearing cost of revenue stamp, vide circular No. 6 of 2000 dated 14-1-2000. Provisions of Section 9A of the Industrial Disputes Act, 1947 (in short the Act) were not complied with. Action of the Corporation in unilateral withdrawal of the said privilege is not only violation of provisions of Section 9A of the Act but illegal and unjustified. It has been claimed that the fringe benefit of bearing cost of revenue stamp by the Corporation should continue and an award may be passed accordingly.

3. Claim was demurred by the Corporation pleading that it was bound to give effect to the provisions of Section 30 of the Indian Stamps Act and being a statutory body cannot act in contravention of statutory requirements. Impugned circular has been issued in conformity with the statutory provisions. If there is any change in conditions of Service, the said change does not fall within the ambit of Section 9A of the Act. The Corporation is also bound to comply with objections raised by the Comptroller and Auditor General, while auditing its accounts.

4. The Corporation presents that Shri Umesh Gupta, Organizing Secretary of the union, has no locus standi to raise the dispute. Shri H.P. Singh, General Secretary of the union, was restrained by the High Court of Delhi in suit No. 681/99 to represent the union. The other group of workers, viz. Sharif Hussain and others, including Shri Umesh Gupta, have also been restrained to act and represent as representatives of the union by the High Court of Delhi in suit No. 2349 of 2000. The Corporation pleads that the present reference was raised by an incompetent person and claim statement has also been signed by an incompetent and unauthorized person. The Corporation nowhere disputes signing of settlement dated 23-05-73 wherein it was decided that payment of wages would be made by the Corporation to the employees on being identified by sardars, on submission of duly receipted acquaintance rolls.

5. Issuance of circular No. 11/2000 is also not disputed. However, it has been claimed by the Corporation that grace period of 90 days was given to switch over to the proposition that cost of revenue stamp would not be borne by the Corporation in future. The circular was implemented and more than 95% of the workers had adopted and switched over to the system, so notified. There was no resistance from other set of the employees too. Bearing cost of revenue stamp by the Corporation is not a condition of service, as enumerated in the Forth Schedule, appended to the Act. Therefore, it was not required to give statutory notice, as provided by Section 9A of the Act. The Corporation, being a statutory body, is also under an obligation to carry out observations made by the Comptroller and Auditor General. It is claimed that there is no case in favour of the union and the claim put forth may be dismissed.

6. In rejoinder, union reiterates the facts pleaded in the claim statement.

7. Vide order No.Z-22012/6/2007-IR(C-II), New Delhi dated 11-02-2008, case was transferred to Central Government Industrial Tribunal No. II, New Delhi, for adjudication by the appropriate Government. It was retransferred to this Tribunal for adjudication by the appropriate Government, vide order No. Z-22012/6/2007-IR(C-II), New Delhi, dated 30-03-2011.

8. On receipt of the case on transfer, notice was sent to the union by registered post on 06-09-2011 calling upon it to appear before the Tribunal on 11-10-2011. Neither notice was received back nor it came to the notice of the Tribunal that there was any disturbance in the work of postal authorities in September and October 2011. Therefore every presumption lies in favour of the fact that postal authorities delivered the notice to the General Secretary of the union. Despite service, none came forward on behalf of the union to prosecute the claim. Constrained by these facts and absence of representation of the union on 10-10-2011, 18-11-2011, 29-12-2011and 06-12-2012, the Tribunal was constrained to proceed with the matter under rule 22 of the Industrial Disputes (Central) Rules 1957.

9. The Corporation tendered affidavit of Shri Tej Singh as evidence. Since none came forward on behalf of the union, hence no opportunity could be accorded to the union to purify contents of the affidavit by an ordeal of cross-examination.

10. Arguments were heard at the bar. Shri Om Prakash, authorized representative, advanced arguments on behalf of the Corporation. None came forward to raise submissions on behalf of the union. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows :

11. At the outset, Shri Om Prakash argued that the dispute was raised before the Conciliation Officer by Shri H. K. Sharma, General Secretary of the union. High

Court of Delhi in suit No. 681 of 1999 had restrained Shri H. P. Singh to act and represent as General Secretary of the union. According to Shri Om Prakash, Shri H. P. Singh was not competent to raise the dispute before the Conciliation Officer. His second limb of attack was that Shri Umesh Gupta, Organizing Secretary of the union, was also not competent to file claim statement before this Tribunal. Shri Gupta was also restrained to act and represent as representative of the union by the High Court of Delhi vide its order dated 23-10-2000 passed in suit No. 2349 of 2000. As such, filing of claim statement is also incompetent. He submitted that the dispute has not been espoused by suitable number of workers, working in the establishment of the Corporation. He concludes that on account of this infirmity, dispute has not acquired status of an industrial dispute. According to Shri Om Prakash, since the dispute has not acquired status of an industrial dispute, this Tribunal has no jurisdiction to adjudicate it.

12. Since the Corporation claims that the dispute referred for adjudication has not acquired status an industrial dispute, it is expedient to consider the definition of the phrase "industrial dispute". The Act defines industrial dispute in section 2(k), which definition is extracted thus :

> "industrial dispute" means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

13. The definition of "Industrial dispute" referred above, can be divided into four parts, viz. (i) factum of dispute, (2) parties to the dispute, viz.(a) employers and employers, (b) employer and workmen, or (c) workmen and workmen, (3) subject matter of the dispute, which should be connected with -(i) employment or non-employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an "industry".

14. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word "workman" it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order, therefore, to determine as to whether a controversy or difference or a dispute is an "an industrial dispute" or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of section 2 of the Act.

15. The object of the Act is to protect workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of employers and a bonafide labour union. Policy behind this is to protect workmen as a class against unfair labour practices. What imparts to the dispute of a workman the character of an "industrial dispute" is that it affects the right of the workman as a class.

16. The Apex Court put gloss on the definition of "industrial dispute" in Dimakuchi Tea Estate (1958 (1) LLJ 500) and ruled that the expression " any person" in clause (k) of section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non-employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment, the person regarding whose employment, non-employer, terms of employment or conditions of labour, the dispute is raised need not be strictly speaking "workman" within the meaning of the Act, but must be one in whose employment, non employer, terms of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus :

> "We also agree with the expression "any person" is not co-extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non-employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or

substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances."

17. In Kyas Construction Company (Pvt.) Ltd. [1958 (2) LLJ 660] Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression "industrial dispute" is wide enough to cater a dispute raised by the employer's workman with regard to non employment of others, who may not be employed as workman at the relevant time. The Apex Court in Bombay Union of Journalist [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workman of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

18. The expression "industrial disputes" has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In Raghu Nath Gopal Patvardhan [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it cannot be per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In Dharampal Prem Chand [1965 (1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of Indian Express Newspaper (Pvt.) Limited [1970 (1) LLJ 132]. However in Western India Match Company [1970 (II) LLJ 256], the Apex Court referred the precedent in Drona Kuchi Tea Estate's case [1958 (1) LLJ 500] and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour, the parties, dispute for a direct or substantial interest".

19. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the union. In the absence of a such a determination by the Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in P.Somasundrameran [1970 (1) LLJ 558].

20. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman's cause, it is sufficient to convert it into an industrial dispute. In Pardeep Lamp Works [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But, their case was subsequently taken up by a new union formed by a large number of co-workmen, if not a majority of them. Since this union was not registered or recognized the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that

these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

21. It is not expedient that same union should remain incharge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co. Ltd. [1970 (II) LLJ 256].

22. A long line of decisions, handed down by the Apex Court, had established that in individual dispute could not per se be an industrial dispute, but could become one if it was taken up by a trade union or a considerable number of workmen of the establishment. This position of law created hardship for individual workmen, who were discharged, dismissed, retrenched or whose services were otherwise terminated when they could not find support by a union or any appreciable number of, workman to espouse their cause. Section 2A was engrafted in the Act by the Amendment Act of 1965 and it has to be read as an extension of the definition of industrial dispute contained in clause (k) of section 2 of the Act. Thus by way of extension of definition of industrial dispute, by insertion of section 2A of the Act, the dispute of an individual workman connected with or arising out of his discharge, dismissal, retrenchment or otherwise termination of his service by his employer has been brought within the ambit of the Act.

23. With this prelude in mind, I will turn to the factual matrix of the controversy. Shri Tej Singh swears in his affidavit, tendered as evidence, that the present dispute was raised by Shri H. P. Singh, who has no locus standi to raise the dispute. High Court of Delhi in suit No. 681 of 99 has restrained Shri H.P. Singh to act and represent as General Secretary of the union. He further details that the other group of workers namely, Shri Sharif Hussian and others who claim themselves to be representatives of the union, including Shri Umesh Gupta, were also restrained to act and represent as representative of the union, by the High Court of Delhi in suit No. 2349 of 2000. The dispute has not been raised by substantial number of workmen and as such it has not acquired status of an industrial dispute.

24. In para 4 of rejoinder, the union nowhere disputes that Shri H.P. Singh was restrained by the High Delhi to act as General Secretary, vide its order dated 5-07-2000. It has also not been disputed that Shri Umesh Gupta and others were also restrained to act and represent as representatives of the union. However, it has been claimed therein that Shri Umesh Gupta continues to be organizing secretary of the union, on the basis of elections held in 1998. Though such pleading has been raised by the union, but none came forward to substantiate that Shri Umesh Gupta can work as Organizing Secretary of the union, on the basis of elections held in 1998.

25. Even otherwise, there is other facet of the coin. The union nowhere disputes that issue was raised before the Conciliation Officer by Shri H.P. Singh challenging contents of circular No. 6 of 2000, who was under command, issued by the High Court of Delhi not to act as General Secretary of the union. Order passed by the High Court, restraining Shri H.P. Singh to act as General Secretary of the union, has been placed over the record. Therefore it is evident that Shri H.P. Singh was incompetent to raise the issue before the Conciliation Officer. Order dated 23-10-2000, restraining Shri Umesh Gupta and others to represent and act as officer bearers of the union has also been placed over the record. Therefore it has emerged over the record that Shri Singh as well as Shri Gupta were restrained by the High Court of Delhi from acting and representing as General Secretary or representative of the union, as the case may be. Hence, neither Shri Singh nor Shri Gupta was competent to raise the dispute or file claim statement on behalf of the union.

26. No evidence worth name has been brought over the record that a considerable number of workers did join together to espouse the dispute. Consequently, it is apparent that the dispute had not acquired status of an industrial dispute. When the dispute has not acquired status of an industrial dispute, appropriate Government was not competent to refer it for adjudication. The dispute, which has not acquired status of an industrial dispute, would not give jurisdiction to this Tribunal for adjudication, on being referred by the appropriate Government. In view of these facts, this Tribunal refrains its hands from adjudicatory process. Question raised in reference order are not answered, for want of jurisdiction. An award is passed, accordingly. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 02-01-2013

नई दिल्ली, 28 जनवरी, 2013

का.आ. 456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या-1, नई दिल्ली के पंचाट (संदर्भ संख्या 213/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2013 को प्राप्त हुआ था ।

[सं. एल-22012/27/1995-आई आर (सी-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 213/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the Industrial Dispute between the employers in retation to the management of FCI, and their workman, received by the Central Government on 28-01-2013.

[No. L-22012/27/1995-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DELHI

ID No. 213/2011

The Addl. General Secretary,
FCI Employees Congress,
H.No. 39, Dayanand Block,
Shakarpur Extn.,
Delhi-110092

....Workman

Versus

The Zonal Manager,
F.C.I. Ansal Bhawan,
K.G. Marg, New Delhi.

.....Management

AWARD

Food Corporation of India (in short the Corporation) had created seven posts of Assistant Editor (Hindi), vide order No. 11/88 dated 8-4-1988. Those posts were to be filled by way of diect recruitment. The Corporation did not fill those posts, since instructions were issued in that regard vide Headquarters instruction dated 11-7-1988. On 11-3-1991 by notification No. 56, published in Gazette of India, amendment was made by the Corporation in its Food Corporation of India (Staff) Regulation 1971 (hereinafter referred to as the Regulations) and nomenclature of above posts was changed to Assistant Manager (Hindi) and mode of recrutment was also amended as 50% of those posts were to be filled by direct recruitment and 50% by way of promotion. In 1991 itself one more post of Assistant Reader (Hindi) fell vacant, since Shri S. Dayal, Assistant Editor (Hindi) retired in that year. This post was also converted to the post of Assistant Manager (Hindi) and thus total eight vacancies were to be filled in by the Corporation, out of which 50% were to be filled in by way of direct recruitment and 50% by way of promotion.

2. In its meeting held on 10-10-1991, the Board of Directors of the Corporation converted all existing category-II direct recruitment quota up to 31-12-2001, other than reserved for SC/ST category as promotional posts to be filled in from amongst the eligible incumbents. In pursuance of this decision, two posts of Assistant Manager (Hindi), out of four posts kept for direct recruitment, were released for promotion, keeping two posts of Assistant Manager (Hindi) to be filled in by promotion. A panel of candidates was prepared by the Corporation for promotion to the post of Assistant Manager (Hindi) against the year, 1991. This Act of the Corporation irked Food Corporation of India Employees Congress (hereinafter referred to as the Union). A demand was raised by the Union that panel, so prepared for five posts against the year 1991, may be scrapped since those posts were available in the year 1988. It was claimed for those five posts panel may be prepared as against the year 1988, for which panel ACRs for the year 1985, 86 and 1987 only may be considered. This demand of the Union was rejected by the Corporation. Aggrieved by that action of the Corporation, the Union raised industrial dispute before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On cosideration of the report, submitted by the Concilition Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No. 22012/27/95-IR(C-II) New Delhi dated 13-7-1995 with following terms:—

> "Whether the action of the management of FCI in not preparing the promotional panel for the post of Assistant Manager (Hindi), originally sactioned in the year 1988 in 1991 is justfied? If not to what relief the aggrieved employees are entitled?"

3. Claim statement was filed by the union projecting therein that initially the issue was raised individually by the workmaen and subsequently the matter taken up by the union. This issue was raised for the first time in December 1991 and subsequently in January 1994. Various letters were addressed to Zonal Manager (North) of the Corporation but to no avail. Ultimately, issue was addressed to in the Joint meeing held in 1994, wherein negative attitude was reflected by the Corporation. It was mentioned in the minutes that the post of Assistant

Manager (Hindi) was created in the year 1991 after amendment of the regulations and it was not feasible to consider the demand raised by the Union for preparation of promotional panel in the year 1988. The Union claims that 7 posts of Assistant Editor (Hindi) were created on 8-4-1988, recruitment process for those posts was kept in abeyance till 1991. Though subsequently nomenclature of the posts was changed, yet virtualy the posts remained the same which were created on 8-4-1988. Since no new vacancies were created in 1991, hence promotional panel against the year 1991 could not be drawn. It was so done by the Corporation to cover up junior-most incunbent with merely 3 years service at the cost of senior most, having more than 20 years service to their credit. Act of the Corporation is malpractice, which resulted in prejudice to the senior most employees. The Union pleads that this Tribunal may order for review of the promotional panel, prepared for the posts of Assistant Manager (Hindi), commanding the Corporation to prepare panel for the year 1988, wherein ACRs of the incumbents for years 1985, 1986 and 1987 only may be taken into consideration.

4. It would not be out of place to mention here that the claim statement filed by the Union is verbose and it is almost difficult to make out head and tail of the facts presented therein. With difficult one would be able to grasp the real issue raised by the Union in the claim statement.

5. Claim was demurred by the Corporation pleading that seven posts of Assistant Editor (Hindi) were created vide order No. 11/88 dated 8-4-1988. Those posts were to be filled in by direct recruitment. Those posts were not filled in till 12-3-1991, as per instructions issued on 11-7-1988. With previous sanction of the Central Government, the Corporation amended its regulation and nomenclature of posts of Assistant Editor (Hindi) was changed to Assistant Manager (Hindi). Mode of recruitment was also amended and it was provided that 50% of the posts would be filled by direct recruitment and 50% by way of promotion. In 1991 itself one more post of Assistant Editor (Hindi) had fallen vacant on account of retirement of Shri S. Dayal Assistant Editor (Hindi) in that year. Amendment of regulations came into effect from 12-3-1991. The post of Assistant Editor (Hindi) which had been vacant in 1991 was also converted into the post of Assistant Manager (Hindi) thus making total 8 vacancies for that post. Thus there were 8 vacancies of Assistant Manager (Hindi) on 12-3-1991, which vacancies did not exist earlier. Out of these 8 vacancies, 4 were kept for direct recruitment and 4 psots were released for promotion. Later on, the Board of Directors, in its meeting held on 10-10-1991, converted all existing catefory II direct recruitment quota posts up to 31-12-1991, other than those reserved for SC/ST to promotion quota to be filled by way of promotion. In pursuance of this decision, 2 posts of Assistant Manager (Hindi), out of 4 posts kept for direct recrutment quota, were released for promotion thereby taking post available for promotion to 6 in number. The Corporation prepared a promotional panel for the year 1991, which is in consonance with the rules. It does not lie in the mouth of the Union to claim that for preparation of panel for promotion in the year 1991 ACRs of the incumbents for year 1985, 1986 and 1987 only were to be considered. Claim put forward is baseless, hence it may be discarded, projects the Corporation.

6. Vide order No. Z-22019/6/2007-IR (C-II). New Delhi dated 11-02-2008, case was transferred to Central Government Industrial Tribunal No. 2, New Delhi, for adjudication, by the appropriate Government. It was retransferred to this Tribunal for adjudication by the appropriate Government, vide order No. Z-22019/6/2007-IR(C-II), New Delhi dated 30-03-2011.

7. Shri Lakshman Sahijwani was examined by the Corporation in September 1997 to project its case. Shri Sri Krishan Raghav the General Secretary of the Union, also tendered his affidavit to establish the case. None came forward on behalf of the Corpoartion to purify contents of the affidavit of Shri Raghav by an ordeal of cross-examination. No other witness was examined by the either of the parties.

8. Arguments were heard at the bar. Written arguments were also filed on behalf of the claiment Union. None came forward on behalf of the Corporation to raise submissions in the matter. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows :—

9. In his affidavit dated 30-12-1996, tendered as evidence, Shri Sri Krishan Raghav swears that 7 posts of Assistant Editor (Hindi) were created by the Corporation, vide sanctioned order No. 11/88 dated 8-4-1988. Vide Telex dated 11-7-1988, the Headquater conveyed to the Zonal Manager (North) that recruitment process for the same may be kept in abeyance. Vide notification No. 56 dated 11-3-1991, posts of Assistant Manager (Hindi) were created, which posts were to be filled in 50% by way of promotion and 50% by way of direct recruitment. The above posts of Assistant Manager (Hindi) were created by changing the nomenclature of the posts of Assistant Editor (Hindi). One vacancy for the post of Assistant Manager (Hindi) arose on account of superannuation of Shri S. Dayal on 31-12-1990. There were seven posts in 1988 and one post fell vacant in 1991 on superannuation of Shri S. Dayal. Panel for promotion to 7 posts was to be drawn against the year 1988, by taking into account ACRs of the incumbents for the year 1985, 86 and 1987, while panel for one vacancy could be drawn against the year 1991 by taking into consideration ACRs of the incumbents

for years 1988, 89 and 1990. Inspite of abiding by the instructions, the Corporation arbitrarily drew consolidated panel in the year 1991, in order to serve vested interests. Thus the junior most even with 3 years' service was empanelled at the cost of those having more than 20 years service to their credit. This ill - motivated bid was resorted to with an intention to jeopardize interest of seniors by forming a panel against the year 1991, while ACRs for years 1988, 1989 and 1990 could be taken into consideration for forming a panel against one vacancy only which occured in the year 1991.

10. Shri Lakshman Sahijwani unfolds in his affidavit Ex. MW1/1 tendered as evidence, that 7 posts of Assistant Editor (Hindi) were created in the year 1988, vide order No.11/88 dated 8-4-1988. Those posts were in Zonal Office (North), Regional Office-Delhi, Regional Office-Lucknow, Regional Office-Jaipur, Regional Office-Haryana at Chandigarh, Regional Office-Shimla and Regional Office-Punjab at Chandigarh. The mode of recruitment of these posts was cent present by direct recruitment, as per appendix part (X) annexed with the Regulation. Vide telex received on 11-7-1988, recruitment process for those posts was kept in abeyance till decision to create posts of Assistant Manager (Hindi) with promotional channel was to be taken. Till 11-7-1988, no process for recruitment was initiated. On 12-3-1991 regulations were amended and nomenclature of the post Assistant Editor (Hindi) was converted to Assistant Manager (Hindi). Mode of recruitment was also changed, since 50% posts were to be filled by direct recrritment and 50% by promotion. Thus a right of promotion was created after 1991 and not earlier. The Board of Directors, in their meeting held on 10-10-1991, converted the existing category-II direct recruitment quota posts, other than reserved for SC/ST to promotion quota. One more post of Assistant Manager (Hindi) was added on account of superannuation of Shri S.Dayal. Thus total 6 posts of Assistant Manager (Hindi) were to be filled by way of promotion, while 2 posts were reserved for SC/ST. All these 6 posts were filled by promotion in 1991. No right of promotion accrued to anybody in 1998 and these posts were to be filled by direct recruitment in that year and there was no provision of promotion. Promotional panel of 1991 is correct and valid. When facts detailed in the affidavit were purified by any odeal of cross examination, the Union could not dispel those facts.

11. When facts unfolded by Shri Sri Krishan Raghav and Shri Lakshman Sahijwani are closely perused, it came to light that in the year 1988, 7 posts of Assistant Editor (Hindi) were created vide order No. 11/88 dated 11-4-1988. Those posts were to be filled in by direct recruitment. In case process of recruitment would have been initiated in 1988, not even a single post was available for promotion to the incumbent already in the service of the Corporation. On 11-7-1988 instructions were issued for the Zonal Manager (Noth) to keep recruitment process in abeyance for those posts, if not initiated by then. It has also not been disputed that till 11-7-1988 recruitment porcess was not initiated by the Zonal Manager (North) of the Corporation. Hence recruitment process was kept on abeyance till dicision to create posts of Assistant Manager (Hindi) with promotional channel was taken. With previous sanction of the Central Government, the Corporation amended the Regulations and notification No. 56 dated 11-3-1991 was published in Gazette,on the strength of which posts of Assistant Manager (Hindi) were created, to be filled 50% byway of promotion and 50% by way of direct recruitment. Thus for the first time in March, 1991, incumbents who were in service of the Corporation, acquired a right for promotion to the post of Assistant Manager (Hindi). Till the regulations were amended neither post of Assistant Manager (Hindi) was in existence nor a right of promotion was available against the post of Assistant Editor (Hindi). Posts of Assistant Manager (Hindi) were created in 1991 only. It cannot be said that right of promotion accrued retrospectively with effect from 11-4-1988, when seven posts of Assistant Editor (Hindi) were created. Therefore claim of the Union, that panel ought to have been prepared for the post of Assistant Manager (Hindi) against the year 1988, is uncalled for.

12. Claimant Union raised dispute relating to preparation of a promotional panel, by way of consideration of ACRs of the incumbents for years 1985, 86 and 1987 only. The dispute raised by the Union is an industrial dispute within the meaning of section 2(k) of the Industrial Disputes Act, 1947 (in short the Act), when the Corporation failed to give promotion to its employees to the posts of Assistant Manager (Hindi) and the matter was taken up by the fellow workmen. The question whether a person has been superseded or not or whether he is entitled to the promotion or not would also be comprehended in the words "employment or non-employment" accruing in section 2(k) of the Act. Promotion in the course of industrial employment is the prerogative of the management, as held by the Apex Court in Hindustan Lever Ltd. [1974 (1) LLJ 1964]. It is matter of discretion of the management to select persons for promotions, held Constitutional Bench of the Apex Court in Brooke Bond (India) (Pvt.) Ltd. [1963 (1) LLJ 256]. But three Judge Bench of the Apex Court in Hindustan Lever Ltd. (1984 Lab. I.C. 1573) suggested that it is time reconsider this archaic view of laissez faire days where promotion was considered as management function because the whole gamut of labour legislation is to check, control and circumscribe uncontrolled managerial exercise of power with a view to eschew the inherent arbitrariness in exercise of such functions. However, law laid in Brooke Bond India Pvt. Ltd. (supra) rules the field. It was laid therein that

though promotion is a managerial function, "it may be recognized that there may be occasions when a tribunal may have to interfere with promotion made by the management where it is felt that persons superseded have been so superseded on account of malafides or victimization".

13. Promotion generally necessitated consideration of competitive suitability of the eligible workmen and such selection process would require the consideration not only of the past performance of those eligible but necessitates making of comparative estimate of their skill, sometimes of technical nature, their personality, capacity to discharge heavier responsibilities and similar other factors. Whether a particular employee should be promoted from one grade to higher grade depends not only on the length of service but also his efficiency and other qualifications for the post to which he seeks to be promoted and in the matter of promotion,intimate knowledge of the higher authority, empowered to promote, have greater value. Seniority plays only a small part in the matter of promotion. In the absence of any malafide, unfair labour practice or victimization, discretion of the management cannot be questioned. Reference can be made to the precedent in Reserve Bank of India [1965 (2) LLJ 175].

14. When malafide, unfair labour practice or victimization is alleged by the workmen, adjudicator will have to enquire whether granting of withholding of certain promotion is malafide or act of unfair labour practice or victimization. If he finds that the promotions in question have been made, which are unjustified on any one of these grounds, appropriate course for him is to set aside the promotions and ask the employer to consider the cases of superseded employees and decide for himself whom to promote after considering the records of the employees worth consideration, except of course the persons whose promotions have been set aside. In other words,when the Tribunal finds that some workers are superseded on account of legal malafide, it may have to cancel the promotions made by employer. See Williamson Magro & Co. [1982 (1) LLJ 32].

15. The Tribunals are intended to adjudicate industrial disputes between the management and the workmen, settle them and pass effective awards in such a way that industrial peace between the employees and the employer may be maintained so that there can be more productions and benefit of all conerned. For the above purpose, industrial tribunal, as far as practicable, shall not be constrained or formulate rules of laws and avoid any inability to arrive at an effective award of justice in a particular dispute. In view of the findings, first of all it should be declared that the promotions were illegal and unjustified being an act of arbitrary action of the management and cancel those promotions. Thereafter, the Tribunal should ask the management to consider the cases again and to promote the eligible employees. But even after finding of malafide or victimization, it is not within the competence of the Tribunal to consider merits of various employee and then to decide to whom to promote. See Brook Bonde India Pvt. Ltd. (supra).

16. Whether the Union could project that the action in preparation of the panel in the year 1991 was based on malafide, unfair labour practice or victimization? No fact at all was projected by Shri Raghav to show that Corporation acted with malafide or it has victimized someone, whom they disliked on account of his union activities or otherwise. No facts were projected by him to give even an idea that the Corporation indulged in unfair labour practice, when the panel was prepared in the year 1991. Seniority and merit ordinarily have a part in promotion to higher ranks but seniority and merit should tamper each other. The employer normally insists on the criteria of merit-cum-seniority and it cannot be questioned unless it smacks of malafide, unfair labour practice or victimization. As pointed out above, the Union has not been able to give even a hint relating to malafide acts, unfair labour practice or victimization. Therefore, action of the Corporation cannot be questioned on the count that managerial discretion was exercised with malafide.

17. There is other facet of the coin. Incumbents, who were empanelled for promotion were not summoned by the Tribunal either suo motu or at the instance of the Union to project their cause. Thus, it is evident that they had no opportunity to present facts before this Tribunal. An award interferring with the promotion of workman without giving notice to him,would be invalid, in as much as it would be violative of the rules of natural justice, announced High Court of Delhi in Shyam Lal (1973 9 Lab. I.C. 957). In case award of the Tribunal affects status of another person, that other person must be impleaded as a party to the proceedings and should be given an opportunity of being heard before an award adverse to him is made. Law to this effect was laid down in Jaswant Singh (1987 Lab. I.C. 663). Since persons empanelled for promotion were not heard over the matter, an award adverse to them cannot be made.

18. As detailed above, Regulations were amended, in March, 1991 and posts of Assistant Manager (Hindi) were created with right to promotional avenues of the incumbents for 50% of those posts. Subsequently, posts meant for direct recruitment quota, other than those meant for SC/ST candidates, were converted to promotional quota. This exercise took place in the year 1991 only. Prior to that neither post of Assistant Manager (Hindi) was in existence nor right of promotion was available against the post of Assistant Editor (Hindi). Consequently, till 1991 the incumbents already in service of the Corporation were having no right of promotion to the post of Assistant Manager (Hindi) or Assistant Editor (Hindi).When those

posts came into existence for the purpose of promotion in 1991, how can the Union expect that ACRs of the incumbents for years 1988, 89 and 1990 may not be considered. If any incumbent loses efficiency or earns low credit in his work in 1988, 89 and 1990 or any of the years, he washes away his right of promotion also. Therefore the claim put forward by the Union that ACRs for the years 1988, 89 and 1990 ought not have been considered for preparation of promotional panel is not only unjustified but against the norms of administrative expediency als. Such claims cannot be entertained.

19. One other facet is to be considered. An incumbent has only a right for consideration for promotion but no right of promotion. As pointed out above, promotion is a managerial function which is to be exercised by way of objective satisfaction of the higher authority. In the matter of promotion intimate knowledge of the higher authority about efficiency and integrity of an employee has greater value. Therefore a senior most person working with an employer has no right to claim promotion in case he lacks efficiency, intergrity and knowledge of work. A right to be considered for promotion is not to be confined with a mere chance of promotion because chance of promotion is not a condition of service. It seems that the Union belabored under a belief that in case ACRs for years 1988, 89 and 1990 would have been considered, Shri Raghav ought to have got a chance of promotion. Such apprehensions or expectations have no place in legal arena. Case of the Union is discarded on that count too.

20. In view of the reasons detailed above, it is apparent that the Union could not project a case worth indulgence by this Tribunal. The case is a fait accompli. Claim put forward is, accordingly, brushed aside. An award is passed in favour of the Corporation and against the Union. It be sent to the appropriate Government for publication.

Dated: 18-12-2012

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, 2, धनबाद के पंचाट (आईडी संख्या 54/99 व 55/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2013 को प्राप्त हुआ था ।

[सं. एल-22012/75/1998-आई आर (सी-II),
सं. एल-22012/74/1998-आई आर (सी-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/1999 & 55/1999) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of FCI, and their workman, which was received by the Central Government on 28-01-2013.

[No. L-22012/75/1998-IR (C-II),
No. L-22012/74/1998-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

SHRI KISHORI RAM, Presiding Officer

Reference No. 54 of 1999

PARTIES: Employers in relation to the management of Food Corporation of India, Tatisilwai Ranchi and their workmen.

[Ministry's Order No. L-22012/75/98-IR (CM-II) dated 22-1-1999 with]

Reference No. 55 of 1999

PARTIES: Employers in relation to the management of Food Corporation of India, Tatisilwai Ranchi and their workmen.

[Ministry's Order No. L-22012/74/98-IR (CM-II) dated 22-1-1998]

APPEARANCES IN BOTH THE ABOVE CASES:

On behalf of the workmen : Mr. Chandrika Pd. Ld. Adv.

On behalf of the management : Junior to Mr. B.M.Pd.

State : Jharkhand Industry: Food

Dated, Dhanbad, the 27th December, 2012

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order referred to above.

SCHEDULE IN

REFERENCE NO. 54 OF 1999

"Whether the action of the management of FCI Tatisilwai, Ranchi in terminating the services of Smt. Piyaso Devi without compliance of 25 F and other

provisions of I.D. Act is right and justified? If not, to what relief is the workman entitled?".

SCHEDULE IN

REFERENCE NO. 55 OF 1999

"Whether the action of the management of FCI Tatisilwai, Ranchi in terminating the service of Smt. Dumman Devi without compliance of 25 F and other provisions of I.D. Act is right and justified? If not, to what relief is the workman entitled?".

2. The pleaded case of workwomen Smt. Piyaso Devi and Dumman Devi is that though they had been working as casual laboures on temporary basis as engaged by the Management of FCI, Tatisilwai, Ranchi from 1986 to 1995 by performing their duty for more than 240 days in 12 months preceding the calender years, the management in stead of regularising them such status in their service arbitrarely stopped them from working without any notice u/s 25 F of the Industrial Dispute Act. The work performed by them is of permanent nature. The list of casual laboures engaged by the Management and the Arrear Bill of the casual labourers at enhanced rate of Rs. 30 per day mentions their names and they have got their arrears as per the payment sheets countersigned by the Asstt. Manager(D),FCI concerned for the said period, yet the management did not regularise them, rather they have been vindictively victimised at its hand. In spite of the admission of the management in its written statement before the ALC(C), Dhanbad concerning them, the non-conciliation of the dispute by the management resulted in the reference for an adjudication.

3. The workwomen in their rejoinders with specific denials have further pleaded that many workers including Lady ones were to perform different kinds of the jobs of perenial nature including loading and unloading of food stuffs from Rly. Wagons to the Depot, and to the Trucks. The management had admitted the relation of master and servant. The management has a pocket union in gloves with each other to be mum over their termination from service. The Industrial Dispute is raisable even u/s 2A of the I.D. Act. The Management has though regularised all the workers sponsored by the Union. Their termination is unjustifiable by the management.

4. Contra pleaded case of the management with categorical denials is that the Lady workmen were exigently engaged as casual workers to perform miscellaneous jobs at the Depot. They were neither permanent workers nor appointed as probationers against any permanent vacant post. Their employment was never continuous, they never put 240 days attendance continuously in any calender year. The Union being in the full know of it, did not sponsor their cases for their regular absorption. They voluntarily left engagement as casual labours. The alleged Industrial disputes are individual,not industrial disputes, for alleged termination. So the question of alleged termination did not arise. The provision u/s 25 (F) of the I.D. Act, 1947 in respect of temporary and casual nature of job has no application to the case.

The management in its rejoinder has stated that it is admitted that the lady workers concerned had intermittently worked as casual workers during the period from 1986 to 1995. Due to the prevailing conditions and non availability of sufficient jobs, the Lady workers concerned themselves stopped to perform casual jobs. No dispute existed before the conciliation officer in 1997, so it was beyond settlement. They are not at all entitled to any relief as prayed for.

FINDING WITH REASONING

5. In this case, MWI Mani Prasad, the A.G., II FCI, Tatisilwai for the management and WWI Piyaso Devi, the Lady workwoman herself and WW2 Shyam Upadhaya, Ancilliary Worker, FCI concerned for herself have been examined. In the reference case No. 55/99 (anologous) aforsaid MWI Mani Prasad for the management, and WWI Dubhan Devi (Dumman), the another workwoman for hereself have been examined.

Unjustifying the claim of petitioner Piyaso Devi and Dhubhan Devi MWI Mani Prasad as Asstt. General II FCI, Tatisilwai has stated that the female workers were exigently engaged as casual workers for collecting food grains from the flour and sweeping etc.at the Depot of Tatisilwai; but they never worked under the management for more then 240 days in a year; as such the question of issuing any notice or payment of compensation unarises in respect of the female workers who were casually deployed as casual workers during the period 1986 to 1995, though they had left the place before 1994. According to the witness (MWI), the management has 180 regular workers who were regularised in the year 1994; and that the management never issued the casual workers any appointment letter.

6. Whereas WWI Piyaso Devi, the petitioner herself has alleged that the management illegally and arbitrarily did not regularise her as casual worker, though the workers including her continously worked under the management throughout the month and the year for which they were paid on their thumb impression on paper yet she was stopped from the service without any notice to her. But the petitioner knowing full well that appointment letter is issued to a person who is appointed and in facts she has not got any letter nor any letter of termination from his service. Quite similar is the statement of WWI Dhubhan Devi in her case conducive to that of aforsaid workman Piyaso Devi.

WW2 Shyam Nand Upadhaya, the Ancillary worker, FCI Tatisilwai, Ranchi on summon, has stated to have regularised along with the 35 workmen working from 1986

against the sanctioned posts of ancillary in the FCI since 1-01-1994. He has proved 38 sheets of payment of wages (the photocopies for the workmen for the period 1993 to 1991 as Ext. W.1series) (with objection), as well as the photocipies of bills for the casual laburers under the signature of him and that of Mr. Srivastavajee, new the Retd.Asstt. Gr. II and under the LTI of the workman, though there is no seal of the Asstt. Gr. II yet it has the seal of the manager. The witness(WW2) has admitted that Mr. Srivastavajee was not the Asstt. Manager in the year 1994, and the photocipies of the bills are under the seal of the Asstt. Manager. According to him, the workman has not submitted any paper as a proof of their still working in the FCI and the workman used to take work from them for 30 days, but paid for 90 days wages in each month as also alleged by the petitioner the fact of payment of wages for 90 days only in place of 30 days in a month is unpleaded, so the evidence is untenable.

7. Mr. Chandrika Pd., the Ld. Advocate for the work woman submits that in view of the admission of the management about the workers Piyaso Devi and Dhuban Devi (Dumman) having been engaged as casual workers on daily wages since 1986 to 1995 who worked regularly but they were terminated without any notice, though they had completed 240 days in each year. Further it is contended on their behalf that since they were not the members of the Unions, so they were not regularised. In support of his contention Mr. C. Prasad, the Ld. Counsel for the petitioners Piyaso Devi has relied upon the authority : (2010)1SCC (L&S) 420 (DB) which in relation to Sec. 25 F of the I.D. Act., 1947 its applicability to the casual employees. The perusal of the authority reveals as held by the Hon'ble Apex Court that in case of termination of casual employee what is required to be seen is whether he has completed 240 days of sevice in preceding twelve months or not ;

8. On the scuritiny of the materials as adduced on behalf of both the parties in this reference case under adjudication, I find as apparent from the photocopy of the Arrear bill or those of bill of casual workers (Ext.W.1 series with objection) related to wages payment from July to Nov., 1993 and the bills of casual labourers for the months of April, May, July, 1991, Feb, and Dec. 1992, May and June,1993, March, 1994 and Jan. & Feb, 1995 respectively as objectionable proof that petitioner Piyaso Devi and Dubhan Devi have not been able to render her service continously for 240 days in any of the said calender years which is the prerequisite to the issuance of notice under 25 F of the I.D. Act, for the termination of a casual worker service. As such, the cases of the petitioners appears to be quite far off the fulfilment of requisite of the notice about it.

In veiw of the aforsaid findings, I find that the argument of Mr. C. Prasad, the Ld. Adv. for the Lady petitioners is not at all plausable and justified. Hence it is held that question of terminating the service of casual workers/petioners Smt. Piyaso Devi and Smt. Dubhan Devi (Dumman) by the action of the Management of FCI, Tatisilwai, Ranchi without compliance of 25 F and other provisions of I.D. Act does not arise whether right or justified, because they never continously worked as casual labours for 240 days in preceding calender year, namely in the year 1994 or in the year 1995; Therefore they are not entitled to any relief whatsoever.

KISHORI RAM, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (आईडी संख्या 54/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2013 को प्राप्त हुआ था ।

[सं. एल-22012/482/1996 आई आर (सी II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/1997) of the Central Government Industrial Tribunal-cum-Labour Court , Asansol as shown in the Annexure, in the Industrial Dispute between the employers in retation to the management of ECL, and their workman, which was received by the Central Government on 28-01-2013.

[No. L-22012/482/1996-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: SRI JAYANTA KUMAR SEN, Presiding Officer

Reference No. 54 of 1997

PARTIES: The management of Chora Group. M/s. ECL, Bahula Burdwan

Vs.

The Jt. Gen. Secy. CMU,Ukhra, Burdwan

Representatives:

For the management:	Sri P.K. Das, Ld. Advocate
For the union (Workman):	Sri S. K. Pandey, Ld. Representative
Industry : Coal	State : West Bengal
	Dated- 08-01-2013

AWARD

In exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/482/96-IR(C-II) dated 29-08-97 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Kenda Area of ECL in dismissing Sh. Bhola Bhuia, Cableman, from service w.e.f. 29-06-94 is legal and justified? If not, to what relief is the workman entitled and from which date?"

(2) Having received the Order of Letter No. L-22012/482/96-IR(C-II) dated 29-08-1997 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 54 of 1997 was registered on 15-09-97 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

(3) The workman Bhola Bhuiya, who was working as Cableman of Chora Colliery 729 pit found absented from his duty from 13-11-93 to 09-03-94 on Medical ground (illness), and accordingly an enquiry was held and after enquiry he has been found guity of unauthorized absent from duty and Charge-Sheet submitted and subsequently the workman has been dismissed from service w.e.f. 29-06-94.

The management has filed photo copies of enquiry proceeding and other documents. On perusal of the enquiry report dated 03-05-94, I find that the workman was suffering from stomach pain and vomiting and he was under treatment of the Dr. B.N. Pal and medical reports (Exhibit 9) were filed during enquiry proceeding.

The main grievance of the Management against the workman is that he remain absent from duty without informing the Management. The learned Representative of the workman has submitted that on 13-11-93 the workman suddenly attacked with stomach pain and blood vomiting, so to save his own life he was rushed to nearby doctor for treatment and Dr. B.N. Pal of Haripur treated him. It has further been submitted that due to this reason the workman or his family members could not inform the Management regarding his illness and the said doctor treated him upto 09-03-94- and on 10-03-94 the doctor gave certificate of fitness, but the Management did not consider the medical treatment papers or the fitness certificate which were filed during enquiry and the Management did not allow the workman to join and dismissed the workman with effect from 09-06-94 which is against the principle of "Natural Justice". It has further been submitted that only on the ground of absence for short-period; the Management passed the capital punishment to the workman and threw the workman on road with his whole family for begging-without giving any opportunity to the workman to reform himself in future.

On perusal of the documents filed on behalf of the Management I find that the workman remain absent from 13-11-93 to 09-03-94 that is about 3 months 26 days, and on 10-03-94 the workman appeared with fitness certificate issued by the doctor,but the same was not considered and the workman was not allowed to join. Further I find from the documents that there is no previous antecedent against the workman that he was habitual absentee. In my opinion, the Management has taken very harsh decision against the workman by dismissing him from service without giving him any opportunity to reform himself.

Accordingly the decision of the Management of Kenda Area of ECL in dismissing Bhola Bhuia, Cable-man is fit to be set aside as illegal and against the principle of "Natural Justice". The workman is entitled to be allowed to join the service with back wages form 10-03-94 on which date the doctor has issued fitness certificate. The workman is not entitled to get any wages of his absent period i.e. from 13-11-93 to 09-03-94. The Management must take an undertaking from the workman that he will not remain unauthorized absent in future, before allow him to join.

ORDER

Let an "Award" be and the same is passed as per above. Send the copies of the "Award" to the Government of India Ministry of Labour & Employment, New Delhi for information and needful.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल के पंचाट (आईडी संख्या 71/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2013 को प्राप्त हुआ था ।

[सं. एल-22012/502/1999-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the employers in retation to the management of ECL, their workman, which was received by the Central Government on 28-01-2013.

[No. L-22012/502/1999-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present: Sri Jayanta Kumar Sen, Presiding Officer

Reference No. 71 of 2000

Parties: The management of New Kenda Colly, M/s. ECL, Bahula, Burdwan

Vs.

The Org.Secy, CMU(INTUC), Kenda, Burdwan

Representatives:

For the management: Sri P.K. Das, Ld. Advocate

For the union (Workman): Sri S.K. Pandey, Ld. Representative

Industry : Coal State: West Bengal

Dated-08-01-2013

AWARD

In exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its Order No. L-22012/502/99-IR (CM-II) dated 01-08-2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of New Kenda Colliery of M/s. ECL in dismissing Sh. Narayan Dusad, Clipman, from service is legal and justified? If not, to what relief the workman is entitled?"

(2) Having received the Order of Letter No. L-22012/502/99-IR(CM-II) dated 01-08-2000 of the above said reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 71 of 2000 was registered on 06-09-2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

(3) The workman Narayan Dusad,Clipman of New Kenda Colliery, of ECL has been dismissed from service on 19-08-96 under Section 17(i) (N) on the basis of C.S. No. Pers/CS/96/37 dated 19-08-96 due to his absence from duty from 30-5-96 for two months and odd period.

It is the case of the workman that he fall ill and he was admitted to Colliery Hospital where he was treated by colliery doctor and in support of the same documents have been filed. It appears from the record that the workman has submitted all the documents including postal receipts of those letters by which he had sent information to the Management. It is submitted that the Enquiry Officer did not consider those documents and recommended for dismissal -which is against the "Natural Justice".

The learned lawyer of the Management has submitted that the workman absented himself from duty without taken any prior leave from the Management and newly absent for about two months due to which the work of the Company was hampered and the Management has rightly took decision and dismissed the workman. On perusal of the record I find that the Management neither filed any documents nor examined any witness to show or prove any past record of the workman that earlier he had also absented unauthorisedly from duty. Thus, I find that the absence of the workman is first fault and for this fault, the Management ought to have given a warning or minimum punishment in stead of passing capital punishment to him by dismissing from service- which is beyond the principle of "Natural Justice".

Considering the whole facts and circumstances of the case discussed above. I find and come into conclusion that the action of the Management of New Kenda Colliery of M/s. ECL in dismissing Sri Narayan Dusad,Clipman, from service is neither legal nor justified, and accordingly the order of dismissal is failed to be set aside.

The workman must reinstate in the service from the date of dismissal with full back wages. However the Management will be at liberty to stop one increment by way of punishment and future warning.

ORDER

Let an "Award" be and the same is passed as per above. Send the copies of the "Award" to the Government of India Ministry of Labour & Employment, New Delhi for information and needful.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 460.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इंडियन ऑयल कम्पनी लिमिटेड, पानीपत रिफाइनरी पानीपत के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चण्डीगढ़ के पंचाट (संदर्भ संख्या 570/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-1-2013 को प्राप्त हुआ था ।

[सं. एल-30012/49/2000-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 28th January, 2013

S.O. 460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 570/2005) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IOCL, Panipat Refinery, (Panipat) and their workman, which was received by the Central Government on 21-1-2013.

[No. L-30012/49/2000-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present :
Shri A. K. Rastogi, Presiding Officer

Case No. I.D. 570/2005
Registered on 23-8-2005

Shri Rajesh Gauba, C/o Sh. Karan Singh, Secretary, Bhartia Mazdoor Sangh, Lal Bati Chowk, Panipat.

... Petitioner

Versus

The Executive Director, IOCL, Panipat Refinery Project, Bohali, Panipat.

... Respondent

Appearances

For the Workman. : Sh. Karam Singh.

For the Management : Sri Raj Kaushik.

AWARD

Passed on 26th December, 2012

Central Government *vide* Notification No. L-30012/49/2000/IR(M) dated 30-8-2000, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :—

> "Whether the action of the management of Indian Oil Corporation Ltd., Panipat, in terminating the services of Sh. Rajesh w.e.f. 18-12-1998 is just and legal ? If not, to what relief the workman is entitled ?"

According to the applicant he had been appointed by the management on 27-9-1996 and he worked under the control and supervision and on the machines of the management. On 17-12-1992 he was refused work without assigning any reason and though he had completed more than 240 days' service at the time of his termination. His services were terminated in violation of Section 25 of the Act. According to the workman the management is guilty of voilating Section 25G, H, N and O of the Act also. He has prayed for his reinstatement with full back wages and continuity of service.

The case was contested by the management and it was alleged that during the period the workman is alleging his employment with the respondent. There was no industry in existence as the work of erection and construction of the Refinery in progress at that time. Hence, no industrial dispute pertaining to the management could be raised. There is no relationship of master and servant between the management and the workman. There is no question of terminating his services by the management. According to the management the workman was working with M/s. Vinay Jain and Company Chartered Accountant who had deputed the workman to carry out the work for and on behalf of the firm. He was an employee of the Chartered Accountant. According to the management the reference is not competent and the workman is not entitled to any relief.

The workman filed a replication to say that he was in the appointment of the management during the erection and construction work and there is a relationship of master and servant between the management and the workman and he was not in the employment of M/s. Vinay Jain and Company.

In support of its case workman examined himself Dan Singh, Retired Deputy Finance Manager of the IOCL Refinery Division and Sultan Singh the then Material Clerk of the management. Photocopies of certain papers were also filed. While on behalf of the management affidavit of K.S. Sandal was filed.

None appeared on behalf of the parties to argue the case. I have however perused the evidence on record. The point involved in the case is whether there is a relationship of master and servant between the management and the workman.

In his statement the workman says that he had appeared the written test on the basis of a notice pasted on the notice board and he had made an application for his appointment. But the fact of his appearing in the written test is not mentioned in his claim statement and admittedly he does not possess any copy of the application. He however admitted that he was not registered with the Employment Exchange and had not received any interview letter and he has not been given any appointment letter also. He does not possess any document to prove that he was getting salary from the management. He placed on record a document A-14 to show that IOCL was in operation in 1998 but he admitted that it was not signed by anyone. In his statement he denied that he was an employee of M/s. Vinay Jain and Company.

His witness Dan Singh had joined the management in the year 1991 as Typist-cum-Clerk and as Deputy Finance Manager in the year 2000. He has stated that at the time of end of the month M/s. Vinay Jain and Company Chartered Accountant were getting his approval to the fact that the employees had worked in the finance department during the month or not. In his cross-examination he stated that the workman was working under the guidance and directions of the agency. He was working as a calculator for the agency and the witness used to verify the working of the workman since the agency was to be paid all the work done by the agency. The workman was not an employee of the management. The payment of the workman used to be made to M/s. Vinay Jain and Company Chartered Accountant and during the year 1998 the construction work of the management was going on and the working of the refinery had not been commissioned.

Another witness of the workman Sultan Singh denied his signatures on the photocopies filed by the workman. He also denied knowing the workman and that the workman had worked under him. He also said that the Refinery had not been commissioned in the year 1997 and 1998.

The case of the workman stands thus demolished by his own witnesses. It is clear from the evidence of the workman witnesses that the Refinery had not been commissioned at the relevant time and the workman was not in the employment of the management. Obviously, there was no relationship of master and servant between the management and the workman and his services cannot be presumed to have been terminated by the management. He has no case. The reference is answered against the workman.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ओरिएन्टल एंश्योरेंस कम्पनी लिमिटेड, हरियाणा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1342/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-1-2013 को प्राप्त हुआ था ।

[सं. एल-17011/5/2007-आई आर (एम)]
जोहन तोपनो, अवर सचिव

New Delhi, the 28th January, 2013

S.O. 461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1342/2007) of the Central Government Industrial Tribunal/Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Oriental Insurance Co. Ltd., (Haryana) and their workman, which was received by the Central Government on 21-1-2013.

[No. L-17011/5/2007-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present :
Shri A. K. Rastogi, Presiding Officer

Case No. I.D. 1342/2007
Registered on 17-12-2007

The General Manager, All India Oriental Insurance Employees Union, 1687-Kacha Bazar, Ambala Cantt. Haryana.

... Petitioner

Versus

The Chairman-cum-Managing Director, The Oriental Insurance Co. Ltd., Oriental House, Asaf Ali Road, New Delhi.

... Respondent

Appearances

For the Workman. : Sh. Rakesh Gupta, Advocate

For the Management : Sri T. S. Gujral, Advocate.

AWARD

Passed on 28th December, 2012

Central Government *vide* Notification No. L-17011/5/2007-IR(M) dated 7-12-2007, by exercising its powers under Section 10 Sub-section (1) Clause (d) and

Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :—

"Whether the action of the management of Oriental Insurance Company Ltd., in introducing the practice of sanctioning minimum 6/7 days earned leave is just, fair and legal ? If not, to what relief the workmen are entitled to end from which date ?" "Whether the action to the management of Oriental Insurance Co. Ltd., in regard to introduction of scheme for grant of Monetary Compensation in lieu of Compassionate Ground Appointments to the legal heir of the deceased employee without consensus of the unions/workmen in the matter is just, fair and legal ? If not, what should be the alternative scheme for compassionate appointment ?"

As per claim statement the Union-claimant on 20-4-2006 had served a Demand Notice raising 19 demands but during the conciliation proceedings, demands No. 1, 2, 3 and 14 were dropped on some assurance given by the management. With regard to remaining demands various suggestions and opinions were given by the parties to sort out the disputes but the disputes could not be resolved due to which the conciliation proceedings failed and failure report was submitted. In the claim statement all the 19 demands of the demand notice have been reproduced and it has been requested that the demands detailed at serial No. 4 to 13 and 15 to 19 be adjudicated.

But in this regard the reference order is worth-mentioning in which only 2 demands had been referred for adjudication —

1. Whether the action of the Insurance Company in introducing the practice of sanctioning minimum 6/7 days earned leave is just, fair and legal ?

2. Whether the action of the management in regard to introduction of scheme for grant of Monetary Compensation in lieu of Compassionate Ground Appointments to the legal heir of the deceased employee without consensus of the Union/workmen in the matter is just, fair and legal ?

It is may be mentioned that the demand about the earned leave is mentioned at serial No. 3 in the claim statement. The Union in the claim statement is not pressing this demand; since it is pressing the demands from 4 to 13 and 15 to 19 only. Obviously with regard to the demand related to earned leave period for a minimum 5 days the Union is not pressing its claim.

The only dispute for adjudication therefore remains the Scheme for grant of Monetary Compensation in lieu of Compassionate Ground Appointments to the legal heirs of deceased employee. The related demand is mentioned at serial No. 8 of para 4 of the claim statement. In the claim statement it has not been clarified as to what is the justification for the appointment on Compassionate Ground and how the introduction of the new scheme for grant of Monetary Compensation in lieu of Compassionate Ground Appointments is unjustified and is against the interest of the workmen.

Management contested the claim and filed reply and additional reply. It has been stated in the additional reply that the provisions of minimum 7 days earned leave and Monetary Compensation in lieu of Compassionate Ground Appointments are not peculiar to the respondent-Company alone and are uniformly followed in all the Public Sector General Insurance Companies. With regard to Monetary Compensation in lieu of Compassionate Ground Appointments it is stated that the four Public Sector General Insurance Company including the respondent-Company after the entry of the private players in the market in 2000-01 were required to review all their systems and procedures with a view to effectively combat the competition brought in by the private players. Such a view was conducted in all functional areas of their working and whatever necessary, requisite reforms were introduced and are still being introduced. One of such review revealed that the Companies need to rationalize their Cadre Strength having regard to the volume of the business and introduction of the IT driven business practices. A study in this direction further establishment that the Companies needed triming the size of their manpower for their sheer survival. Being in Public Sector, it was not possible for the Companies to resort to job-cuts, but following the best model employer practices, and after a dialogue of the management with all representative Unions/Associations, the Central Government introduced Special Voluntary Retirement Schemes for all classes of employees in these Companies in the financial year 2003-2004, resulting in about 12 per cent reduction in their workfocre. Even after these SVR Schemes, the Companies, with their present volumes of business, are still living with an excess manpower, which is expected to even out in due course, partly by a growth of business and partly by exists of employees by normal means such as superannuating. With this scenario, the Companies were not in a position to continue with the welfare measure of Compassionate Ground Appointments, particularly, when the other comparable Public Sector Organizations, such as Banks, have already dispensed with such provisions. Moreover several judicial pronouncements of the Hon'ble Supreme Court also called for an immediate review of this provision. In the meanwhile, the Government of India had already introduced a Pension Scheme for employees of these Companies, to take care of the social security of these employees and the families of those dying in harness

Accordingly in June/August 2002, the four Public Sector General Insurance Companies (after due dialogue with the Employees Unions in January 2002 and not unilaterally as alleged by the claimant-Union) replaced the provision of Compassionate Grounds Appointment with the system of Monetary Compensation in lieu thereof.

It was also pleaded in the additional reply that in pursuance to order passed by the Hon'ble High Court at Delhi on July 8, 2008 in the writ petition arising out of instant impugned reference, the matter was taken up by the High Powered Committee, who permitted the repondent-Company to pursue the matter before High Court. However before the matter could be taken up before the Hon'ble High Court, the claimant-Union filed the matter before this Tribunal and the matter is subjudiced.

It may be mentioned that after the filling of the reply/ written statement by the management on 12-8-2012 none appeared for the Union and the case proceeded ex parte against the Union vide order dated 1-3-2011.

On behalf of the management a witness was examined.

Since none appeared on behalf of the claimant after the filing written statement of the management, I heard the learned counsel for the management and perused the record. The management has filed a copy of the order dated 8-7-2008 of the Hon'ble Delhi High Court in Writ Petition No. 1150/2008 and CM No. 2233/2008. The Oriental Insurance Company Limited Vs. Union of India and Others in which the Hon'ble High Court issued a direction to the Insurance Company to approach the High Powered Committee for resolution of the disputes, and pending resolution of the disputes or alternatively permission to initiate litigation by the High Powered Committee, the respondent No. 1 i.e. Union of India shall not take any steps in pursuance of the order dated 7-12-2007 impugned in the writ petition.

From the additional reply of the management it is clear that the matter has already been taken up by a High Powered Committee in pursuance of the order by the Hon'ble High Court and the said Committee permitted the respondent-Company to pursue the matter before the High Court. But the matter could not be taken up before the Hon'ble High Court as the Union has filed this claim petition. Obviously neither the Hon'ble High Court nor the High Powered Committee is presently seized with the matter.

So far as this reference is concerned it may be reiterated that out of the two disputes referred in the reference order the Union-claimant has pressed its demand regarding the Monetary Compensation in lieu of Compassionate Grounds Appointment. But as stated above in the claim statement no reason or ground has been given on which basis the impugned scheme may be held unfair or illegal, while the management has given the reasons and set out the circumstances leading the introduction of the new scheme. I am of the view that for the reasons given by the management, the scheme of providing Monetary Compensation in lieu of Compassionate Ground Appointment cannot be held to be unjust, unfair and illegal. Hence in my view the claimant union is not entitled to any relief. The reference is answered against it.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन आर सी ऑफ एग्रो फारेस्ट्री के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (आईडी संख्या 18/05, 21/05, 28/06, 9/06, 44/06, 46/06, 02/06, 54/05, 56/05, 57/05, 31/06, 32/06, 33/06, 19/05, 01/06, 47/06, 30/06, 58/05, 48/06, 20/05, 29/06, 53/05, 11/06, 03/06, 20/06, 34/06, 55/05, 26/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2013 को प्राप्त हुआ था ।

[सं. एल-42012/239/2004-आई आर (सी-II),
सं. एल-42012/235/2004-आई आर (सी-II),
सं. एल-42012/67/2005-आई आर (सी-II),
सं. एल-42012/29/2005-आई आर (सी-II),
सं. एल-42012/103/2005-आई आर (सी-II),
सं. एल-42012/105/2005-आई आर (सी-II),
सं. एल-42012/26/2005-आई आर (सी-II),
सं. एल-42012/30/2005-आई आर (सी-II),
सं. एल-42012/47/2005-आई आर (सी-II),
सं. एल-42012/46/2005-आई आर (सी-II),
सं. एल-42012/66/2005-आई आर (सी-II),
सं. एल-42012/61/2005-आई आर (सी-II),
सं. एल-42012/63/2005-आई आर (सी-II),
सं. एल-42012/238/2004-आई आर (सी-II),
सं. एल-42012/27/2005-आई आर (सी-II),
सं. एल-42012/104/2005-आई आर (सी-II),
सं. एल-42012/65/2005-आई आर (सी-II),
सं. एल-42012/31/2005-आई आर (सी-II),
सं. एल-42012/100/2005-आई आर (सी-II),
सं. एल-42012/237/2004-आई आर (सी-II),

सं. एल-42012/64/2005-आई आर (सी-II),
सं. एल-42012/49/2005-आई आर (सी-II),
सं. एल-42012/25/2005-आई आर (सी-II),
सं. एल-42012/28/2005-आई आर (सी-II),
सं. एल-42012/55/2005-आई आर (सी-II),
सं. एल-42012/62/2005-आई आर (सी-II),
सं. एल-42012/48/2005-आई आर (सी-II),
सं. एल-42012/236/2004-आई आर (सी-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/05, 21/05, 28/06, 09/06, 44/06, 46/06, 02/06, 54/05, 56/05, 57/05, 31/06, 32/06, 33/06, 19/05, 01/06, 47/06, 30/06, 58/05, 48/06, 20/05, 29/06, 53/05, 11/06, 03/06, 20/06, 34/06, 55/05, 26/05) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NRC for Agro Forestry and their workman, which was received by the Central Government on 28-01-2013.

[No. L-42012/239/2004-IR(C-II),
No. L-42012/235/2004-IR(C-II),
No. L-42012/67/2005-IR(C-II),
No. L-42012/29/2005-IR(C-II),
No. L-42012/103/2005-IR(C-II),
No. L-42012/105/2005-IR(C-II),
No. L-42012/26/2005-IR(C-II),
No. L-42012/30/2005-IR(C-II),
No. L-42012/47/2005-IR(C-II),
No. L-42012/46/2005-IR(C-II),
No. L-42012/66/2005-IR(C-II),
No. L-42012/61/2005-IR(C-II),
No. L-42012/63/2005-IR(C-II),
No. L-42012/238/2004-IR(C-II),
No. L-42012/27/2005-IR(C-II),
No. L-42012/104/2005-IR(C-II),
No. L-42012/65/2005-IR(C-II),
No. L-42012/31/2005-IR(C-II),
No. L-42012/100/2005-IR(C-II),
No. L-42012/237/2004-IR(C-II),
No. L-42012/64/2005-IR(C-II),
No. L-42012/49/2005-IR(C-II),
No. L-42012/25/2005-IR(C-II),
No. L-42012/28/2005-IR(C-II),
No. L-42012/55/2005-IR(C-II),
No. L-42012/62/2005-IR(C-II),
No. L-42012/48/2005-IR(C-II),
No. L-42012/236/2004-IR(C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE SRI RAM PARKASH, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR.

Industrial Dispute nos.—

1. I.D. No. 18/05 L-42012/239/2004-IR CM-II dated 05-08-05.

Ramesh Singh son of Sri Atar Singh, Village Simardha, Post Karari, Jhansi.—

2. I.D. No. 21/05, L-42012/235/2004-IR CM II dated 05-08-05, Sobaran son of Issi, Village post Bhojla, Jhansi. Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Sobaran son of Issi from service with effect from 1-12-03 is legal and justified? If not,to what relief the concerned workman is entitled ?

3. I.D. No.28/06, L-42012/67/2005, IR-CM-II dated 17-05-06. Jarad Khan son Raunik Ali, Post and Village Bhojla Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Jarad Khan son of Raunak from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

4. I.D. No. 09/06, L-42012/29/2005, IR-CM-II dated 3-1-06, Jitender son of Asha Ram Village & Post Bhojla Jhansi. Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Jitendra son of Sri Asha Ram from service with effect from 1-10-03 is legal and justified? If not, to what relief the concerned workman is entitled?

5.I.D. No. 44 of 06, L-42012/103/2005-IR CM.II dt. 28-6-06

Jagdish son of Hardas 44 outside Unao Gate Jhasni.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Jagdish son of Hardas from service with effect from 1-04-98 is legal and justified? If not, to what relief the concerned workman is entitled ?

6. I.D. No. 46 of 06, L-42012/105/2005-IR CM II dated 28-06-2006.

Brijesh Kumar son of Sri Kripa Ram Dhobi, Village & Post Dhamna Khurd via Bara Gaon, P.S. Barwasagar, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Brijesh Kumar son of Sri Kripa Ram Dhobi from service with effect

from 1-10-03 is legal and justified? If not, to what relief the concerned workman is entitled? Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Ramesh Singh son of Sri Atar Singh from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

7. I.D. No. 2/06, L-42012/26/2005-IR CM II dt. 14-12-05

Ghanshyam son of Beni Prasad Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Ghanshyam son of Beni Prasad from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

8. I.D. No. 54/05, L-42012/30/2005-IR CM II dt. 29-11-05, Naresh Kumar son of Ram Swarup c/o Om Parkas Jha, Outside Datiya Gate, Nakhta Chopra, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Naresh Kumar son of Ram Swarup from service with effect from 1-10-03 is legal and justified? If not, to what relief the concerned workman is entitled?

9. I.D. No. 56/05 L-42012/47/2005-IR CM II dated 06-12-05. Munna son of Mangi, Village & Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Munna son of Mangi Prasad from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

10. I.D. No. 57/05, L-42012/46/2005-IR CM II dt. 06-12-05.

Gulab son of Moti Lal Village Simardha Post Karari, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Gulab son of Moti Lal from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

11. I.D. No. 31/06 L-42012/66/2005-IR CM II dated 17-05-06.

Ramesh son of Sri Har Prasad Village Samradha Post Karari, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Ramesh son of Har Prasad from service with effect from 1-10-03 is legal and justified? If not, to what relief the concerned workman is entitled?

12. I.D. No. 32/06, L-42012/61/2005-IR CM-II dated 17-05-06.

Munna Lal son of Dhani Ram Raikwar, Village Samradha Post Karari, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Munna Lal son of Dhani Ram Raikwar from service with effect from 1-10-03 is legal and justified? If not, to what relief the concerned workman is entitled?

13. I.D. No. 33/06, L-42012/63/2005-IR CM-II dated 17-05-06.

Suresh Singh son of Sri Jhunna, Village Simradha, Post Karari, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Suresh Singh son of Jhunna from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

14. I.D. No. 19/05 L-42012/238/2004-IR CM-II dated 05-08-2005. Daya Ram son of Sri Ram Sewak Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Daya Ram son of Ram Sewak from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

15. I.D. No. 01/06, L-42012/27/2005-IR CM-II dated 14-12-05.

Virendra son of Chhimmi Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Virendra son of Chhimmi from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

16. I.D. No.47/06, L-42012/104/2005-IR CM-II dated 28-06-06.

Hardayal son of Sri Bhagwan Das Kushwaha, 157 Unao Gate Mewati Pura, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Hardayal son of Sri Bhagwan Dass Kushwaha from service with effect from 1-10-03 is legal and justified? If not, to what relief the concerned workman is entitled?

17. I.D. No. 30/06, L-42012/65/2005-IR CM-II dated 17-05-06.

Sri Parkash son of Babu Lal Kushwaha, 69 Out side Sujan Khan Khirki, Jhansi. Whether the action of the management of National Research Center for Agro Forestry, in terminating Sri Parkash son of Babu Lal Kushwaha from service with effect from 1-12-03 is legal and justified? If not, to what relief the concerned workman is entitled?

18. I.D. Case No. 58/05, L-42012/31/2005-IR CM-II dated 29-11-2005.

Daya Sharma son of Halkey Village Simradha Post Karari, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the services of Sri Daya Sharma son of Sri Halkey with effect from 01-12-03 is legal and justified? If not to what relief the workman is entitled to?

19. I.D. No. 48 of 06, L-42012/100/2005-IR CM II dated 12-06-06.

Mani Ram son of Sri Raju Out Side Unao Gate Near Shamshan Ghat, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Mani Ram Son of Sri Raju with effect from 01-03-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

20. I.D. No. 20/05, L-42012/237/2004-IR CM-II dated 5-08-05.

Sri Har Govind son of Nand Kishore Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Hargovind Son of Sri Nand Kishore with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

21. I.D. No. 29/06, L-42012/64/05-IR CM-II dated 17-05-06.

Harish Chandra son of Beni Prasad Village and Post Bhojra, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Harish Chandra son of Sri Beni Prasad with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

22. I.D. No. 53 of 05, L-42012/49/2005- IR CM-II dated 06-12-05.

Mahesh son of Sarnam Village and Post Bhojla District Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Mahesh son of Sarnam with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

23. I.D. No.11/06, L-42012/25/2005-IR CM II dated 03-01-2006.

Sri Malkhan son of Bala Prasad Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Malkhan son of Bala Prasad with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

24. I.D. No. 3/06, L-42012/28/2005-IR CM II dt. 14-12-05.

Sri Kishori Lal Son of Sri Bhunney, Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Kishori Lal Son of Sri Bhunney with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

25. I.D. No. 20/6, L-42012/55/2005-IR CM II dated 24-02-06.

Sri Sarnam Singh son of Sri Shiv Dayal, Village Bchta, Post Issagarh, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Sarnam Singh Son of Sri Shiv Dayal with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to ?

26. I.D. No. 34/06, L-42012/62/05-IR CM-II dated 17-05-06.

Sri Munna son of Sri Janki Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Munna son of Janki with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

27. I.D. No. 55/05. L-42012/48/2005-IR CM-II dated 06-12-05.

Tulsi Ram son of Nanhoo, Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Tulsi Ram Son of Sri Nanoo with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

28. I.D. of 26/05. L-42012/236/2004/IR (CM II) dated 09-08-05.

Sri Rakesh Son of Sri Mukhi Lal, Village and Post Bhojla, Jhansi.

Whether the action of the management of National Research Center for Agro Forestry in terminating the service of Sri Rakesh Son of Sri Mukhi Lal with effect from 01-12-2003 is legal and justified? If not to what relief the concerned workman is entitled to?

And

The Director,
National Research Center For Agro Forestry,
Gwalior Road, Jhansi.

AWARD

1. Brief facts are—

2. These are the 28 cases numbering given above—

3. On the request of both the parties alleging that all the cases are based on similar facts and common question of law is involved, therefore, considering their prayer for consolidation all the aforesaid cases have been consolidated and I.D. 18 of 2005 Ramesh Singh case has been made the leading case. Evidence has been adduced only in this case. Documents have been referred relating to this case, therefore, I am narrating the facts of this case and I do not find it necessary to narrate the facts of other cases.

4. It is alleged by the claimant of this case and other cases that their agriculture land was acquired by the opposite party as such the opposite party engaged them for their livelihood. Sri Ramesh Singh was employed by the opposite party with effect from 1-6-89 as mazdoor on daily rated basis. The work of the opposite party is of perennial nature. The work and conduct of the applicant were very good but when the applicants demanded equal wages for equal work and other raised other demands, this annoyed the opposite party and they terminated the services of Sri Ramesh Singh with effect from 1-12-03. In all the other files in number of cases the date is same though in few cases date of termination is October 2003 and likewise. Thus the claimant allege that he has continuously worked from 1-6-89 till the date of termination and worked for more than 240 days in each calendar year. Opposite party did not issue any notice or pay retrenchment compensation etc., as per the mandatory provisions of Section 25F of the Act.

5. It is also alleged that their services have been terminated while many juniors viz., Ram Babu, Arvind, Baljeet etc. were retained in service, therefore, this action of the opposite party is in violation of the provisions of the Act. It is also alleged that after their termination from services the opposite party has engaged a number of persons which is again in violation of Section 25H of the Act.

6. Therefore, all the applicants have prayed that they should be reinstated and consequential benefits should be given to them.

7. Opposite party has filed written statement. Mainly they have stressed that these workmen were never employed against any sanctioned post, there never existed any relationship of master and servant between the opposite party and the management, once they had never been in the employment of the opposite party therefore, question of their termination from services does not arise and simultaneously have also refuted breach of the provisions of the Industrial Disputes Act. It is also alleged that the engagement of these workmen were for time bound period and their services came to an end by efflux of time. It has also been stated by the opposite party that from 1992, all the work seasonal or otherwise are being taken through contractor. It is also alleged that these workmen had never completed 240 days or more prior to their date of termination.

8. This written statement comprises of 279 paragraphs and 117 pages mostly there is repetition of facts. Preliminary objection has also been raised in number of paragraphs like that the reference is bad in law and the tribunal has no jurisdiction. Filing of such type of written statement which is a repetition of facts and other things has never been considered in a happy way.

9. Lastly it is prayed that the claim of the workmen is devoid of merit and is liable to be rejected and should be rejected.

10. Rejoinder statement has also been filed but nothing new has been pleaded therein.

11. Claimant has filed several documents. 14 documents have been filed *vide* list dated 8-7-2008, but the auth. Rep. for the workman has drawn my attention mainly on paper nos. 29, 30, 31, 32, 33 and 38, which will be discussed during the analysis of evidence.

12. Opposite party has also filed documents vide list 23-7-10. These documents are, photocopy of registration certificate under the contractor labour Act, 1970, photocopy of license of contractor Sri Jai Ram and others, photocopy of renewal of license of contractor.

13. Both the parties have adduced oral evidence. Claimant has adduced himself. He has filed affidavit in the evidence and he has been cross examined.

14. Opposite party has filed an affidavit of Sri Ganga Ram Sr. Farm Manager.

15. Both witnesses have been cross examined.

16. It is stated on oath by MW1 that the work at National Research Center for Agro Forestry is of occasional, seasonal nature and not of a regular nature and after 1992 all such type of work is being done through contractor. It is stated that the aforesaid center has been duly registered under Contract Labour Act, 1970 and they are licensed contractor. It is stated that alleged applicant Sri Ramesh Singh and others might have been engaged as a contract labour through the contractor and there was no relationship of employer and employee between the parties. They had never been appointed or engaged against any post. Their names have never been sponsored by employment exchange and no appointment letter has ever been given to the applicant. The management had never paid any wage or salary to Sri Ramesh Singh and other. They have never worked for 240 days or more before their termination. They cannot create any new post.

17. I have examined the evidence adduced by the workman also.

18. It is a fact that there is no appointment letter, their names have never been sponsored by employment exchange, and there is no regular post of mazdoor as claimed. It is admitted by the claimant that they used to work on daily basis and whenever there was demand of work they were duly informed.

19. I have seen the documentary evidence also. Paper no. 29 is a certificate but it is a photocopy and it cannot be believed unless there is cogent evidence. Paper no. 30 cannot be believed. Paper no. 31 appears to on the letter pad of the opposite party but there are over writing after putting fluid and it refers to Sri Sobaran presuming that it belongs to the year 1995, still it cannot be said that the applicant worked in the direct service of the opposite party. Paper nos. 32 and 38 are still photocopies; paper no. 33 has also been examined by me. Attention has been drawn by the AR for the workman and this paper also does not appear to be genuine. This letter appears to be dated 27-6-95 written to Sri Sarnam Singh but the date for the inquiry alleged to against one Sri Moti Lal, the date has been given as 5-7-05, which cannot be genuine, and there is a difference of 10 years. Termination is alleged of the year 2003, paper dated 5-7-05 how did came in the hand of the applicant does not appear to be genuine. Similarly paper no. 31, which I have discussed earlier that also relates to some inquiry against Moti Lal and in that inquiry the date has been shown as 3-8-95 after putting fluid. If paper no.31 and 33 read together then both the documents create doubt in the mind of the tribunal.

20. It is a fact that there is no payment voucher in lieu of wages or salary showing the relationship of master and servant between the parties.

21. There is not a single document showing any relationship of master and servant between the parties. Opposite party has categorically said that after their issuance of circular of the year 1990, no casual labour has been engaged since 1992.

22. The contention raised by the authorized representative for the claimant that after termination, many juniors viz. Ram Banu etc., have been retained in service, is not tenable. There is no such cogent and reliable evidence in this respect also. The other contention that some new hands have been engaged after their termination is also not tenable as there is no cogent evidence. There does not appear to be any violation of Sections 25F, 25G and 25H by the management.

23. I have given due thoughts to all the documentary evidence and oral evidence of both the parties, there is no such cogent evidence which may prove that the applicants have been engaged or employed by the opposite party as mazdoor and they have continuously worked for 240 days or more in the preceding year from the date of their termination.

24. Therefore, the applicants have failed to prove their cases consequently they are not entitled for any relief.

25. Reference is therefore, answered accordingly against the workers.

RAM PARKASH, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (आईडी संख्या 618/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2013 को प्राप्त हुआ था ।

[सं. एल-23012/17/2001-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 618/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh No. II as shown in the Annexure in the Industrial Dispute between the

management of BBMB, and their workmen, which was received by the Central Government on 28-01-2013.

[No. L-23012/17/2001-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri A. K. Rastogi, Presiding Officer.

Case No. I.D. 618/2005
Registered on 24-8-2005

Shri Naveen Kumar, C/o Sh. R. K. Singh Parmar, 211-L, Brari, P.O. Partap Nagar, Nangal Dam, Ropar

... Petitioner

Versus

The Chief Engineer (Power Wing) Generation, BBMB, Nangal Township, Ropar ... Respondent

APPEARANCES

For the Workman : Sh. R.K. Singh Parmar.

For the Management : Sh. N. K. Zakhmi Advocate.

AWARD

Passed on 26-12-2012

Central Government vide Notification No. L-23012/17/2001-IR(CM-II) Dated 30-4-2002, by exercising its powers under Section 10, sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :—

> "Whether the action of the Chief Engineer (Power Wing) Generation BBMB, Nangal Township, Ropar in terminating the services of Sh. Naveen Kumar S/o Sh. Madan Mohan Joshi w.e.f. 28-2-1999 is legal and justified? If not, to what relief the workma n is entitled to?"

The case of the workman is that he had been employed as Grinderman in workcharged capacity in Ganguwal and Kotla Power Houses Division w.e.f. 19-6-1997 and remained employed up to 20-11-1998. He was again employed w.e.f. 6-1-1999 in the same capacity till 28-2-1999. Every time he was employed on six months basis and he was made to work for specified period to debar him for claiming compensation payable to him under Section 25F of the Act. The work was continuous and had not completed when his services terminated. His employment for a specified period was an unfair labour practice and the respondent subsequently started contractual employment as a device to take it out of principal clause of retrenchment. Management arbitrarily put notional breaks in his service though he had worked on the alleged days of breaks. Workman has further alleged that Ganguwal and Kotla Power House is a factory registered under Factories Act but the management failed to seek permission from the appropriate authority under Section 25N or the Act for the retrenchment of the workman. It has also been alleged that the work for which the workman had been engaged is still going on and now has been entrusted to BHEL and the said firm had recruited its own workman without, giving an opportunity of re-emploment to the workman. The workman has claimed his reinstatement.

The claim was contested by the management and it was alleged that the workman had been engaged on contract basis for a specific period and specific work hence, provisions of Section 25F and 2(S) of the Act are not applicable. According to the management the workman had been engaged on contract basis vide appointment letter dated 9-9-1997 for workcharged post of Grinder on contract basis for a period of six months for renovation, modernization and uprating of generation unit of Power Houses and after the expiry of the contract period his contract was further renewed through a fresh appointment letter dated 10-3-1998 for another six months. After that the workman was re-engaged on contract basis up to 28-2-1999 vide appointment letter dated 1-1-1999 and on the expiry of the last contract period the services automatically terminated. Non-renewal contract does not amount to retrenchment and comes within the exception provided under Section 2(oo)(bb) of the Act. It was also alleged that the workman worked for less than 240 days continuously with the management during the period of 12 calendar months preceding the date with reference to which the calculation is to be made and since the management has not retrenched the workman hence, there was no need of taking permission from the appropriate authority. The management has not indulged in any unfair labour practice and the claim has no merits.

In support of its case workman examined himself while on behalf of management A. K. Mehta, Assistant. Executing Engineer (Maintenance), BBMB, Ganguwal Power House was examined. Parties relied on certain papers also.

I have heard the AR of the workman and the learned counsel for the management and perused the evidence on record. The workman in his statement has admitted appointment letters dated 9-9-1997 and 10-3-1998 but denied that after the expiry of first contract a new contract had been entered instead the earlier contract had continued according to him. He admitted that after the

expiry of second offer he had been relieved of the job. He had admitted further the contract agreement dated 6-10-1998 Exhibit WW1/6 and his last appointment in January 1990 through appointment letter WW1/7 lasting up to 28-2-1999. He stated that the management did not offer him the work thereafter although they had the work with them. He also stated that the work thereafter was assigned to a company of Hyderabad and the work had been given to that company also for six months.

The AR of the workman argued that the engagement of the workman was continuous from 16-9-1997 to 28-2-1999 and the management put artificial notional break and made the engagement of the workman for six months every time just to deprive him of the benefit of Section 25F of the Act. He has completed 240 days of service within 12 calendar months preceding his date of termination on 28-2-1999. The work is existing and is continuous in nature. The worman had been retrenched against the provisions of Section 25F of the Act.

The workman has alleged that the establishment in which he had been engaged is a factory. This fact has not been disputed by the management also.

If the establishment was a factory then the condition precedent for the retrenchment are governed by Section 25N of the Act under Chapter V-B and not by Section 25F of Chapter V-A of the Act. For the protection under Section 25N of the Act the workman must have completed continuous service of one year. The definition clause of Section 25B is not applicable to Chapter V-B. Therefore continuous service of one year under Section 25N of the Act means continuous service,of one year and not of 240 days. Now the workman has admitted that after the expiry of period of second offer he had been relieved of the job. It means that he had been relieved in September 1998 and was freshly engaged through appointment letter dated 1-1-1999 till 28-2-1999 i.e. for two months only. Thus there was a gap of three months between the expiry of his engagement based on second appointment letter and in his engagement vide appointment letter 1-1-1999. The gap of three months cannot be considered as a notional break.

I agree that Section 2(oo)(bb) cannot be extended to cases where the job continues but periodical renewals are made to avoid giving a regular status to a workman as it would be an unfair labour practice and this clause being in nature of an exception, cannot be given a meaning which will nullify or curtail the ambit of the principal clause because it is not intended to be an outlet for the unscrupulous employers to shunt out workman in the garb of non-renewal of the contracts even if the work subsists and if the work continues the non-renewal of the contract has to be dubbed as mala fide. The nature of the employment must be judged by the nature of duties performed by the workman.

In this case it is important that through offer of appointment letter Exhibit WW1/2 dated 9-9-1997 and WW1/5 dated 10-3-1998 the workman had been offered a post of Grinder for six months every time but his second appointment through Exhibit WW1/5 was subject to executing a contract agreement. Exhibit MW1/1 and ExhibitWW1/4 filed by management shows that thereafter also he had been engaged subject to executing contract agreement and for a very short period i.e. from 20-9-1998 to 30-9-1998 and thereafter through contract agreement. Exhibit WW1/6 from 6-10-1998 to 20-11-1998 and thereafter through offer appointment WW1/7 from 6-1-1999 to 28-2-1999.

It will be seen from the documents that through contract agreement Exhibit WW1/4 and Exhibit WW1/6 the workman had been engaged for the specific work of renovation, uprating and modernization of machines of Ganguwal and Kotla Power Houses while on other occasions he had not been employed for any specific work but only as a Grinder and for a specified period. Thus during his period of engagement though his post was the same but nature of duties were different. His engagement through Exhibit WW1/4 and WW1/6 for the work of renovation, uprating and modernization of machines shows that the work was not of continuous nature. There is nothing on record to suggest that the nature of work for which he was appointed on other occasions also was of continuous nature. It appears that his appointment was not for the same job and was on need-based and it was for a specified periods and the termination of his service on 28-2-1999 as per appointment letter Exhibit WW1/1 was in terms of contract and the non-renewal contract cannot be dubbed as mala fide.

I agree with the learned counsel for the management that the workman had been engaged on contract basis for specific periods and his service came to an end on the expiry of the contract period. No mala fide can be attributed to the non renewal of the contract and it is not a case of retrenchment. It comes within the exception provided under Section 2, clause (oo)(bb) of the Act. The action of the management therefore, in terminating the service of the workman w.e.f. 28-02-1999 is legal and justified and workman is not entitled to any relief. Reference is answered against the workman.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 464.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, असनसोल के पंचाट (आईडी संख्या 20/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2013 को प्राप्त हुआ था।

[सं. एल 22012/113/2005-आई आर (सी एम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the Industrial Dispute between the management of Bankala Colliery of M/s. ECL, and their workmen, received by the Central Government on 28-1-2013.

[No. L-22012/113/2005-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT : SRI JAYANTA KUMAR SEN, Presiding Officer

REFERENCE NO. 20 OF 2006

PARTIES : The management of Bankola Colly., M/s. ECL, Burdwan

Vs.

The Gen. Secy, KMC, Asansol(WB)

Rerpresentatives :

For the management	:	Shri P.K. Goswami, Ld. Advocate
For the union (Workman)	:	Shri Rakesh Kumar, Ld. Representative
INDUSTRY	:	COAL
STATE	:	WEST BENGAL

Dated - 06.12.12

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/113/2005-IR(CM-II) dated 11-7-06 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Bankola Colliery of M/s. Eastern Coalfields Limited in not giving the compassionate employment to the dependant of Late Lalkeshwar Bhulan, Trammer, who died while in service, is legal and justified? If not, to what relief the dependant of deceased workman is entitled to?"

Having received the Order of Letter No.L- 22012/113/2005-IR(CM-II) dated 11-07-06 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 20 of 2006 was registered on 09-08-06 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, it has been found that the dependant of Late Lalkeshwar Bhulan has not yet appeared though Sri Rakesh Kumar, General Secretary of the Union appeared on 15-05-2012 and filed his attendance. Thereafter, he did not take any step in this case. Today, one Suresh Bhuiya appeared before the Court claiming himself as dependant of Late Lalkeshwar Bhulan, Trammer, but no document has been filed to show that he is actually legal heir of Late Lalkeshwar Bhulan. Today Sri Rakesh Kumar, who is present in Court, on enquiry by the Court, stated that after that he has no information from the dependant of Late Lalkeshwar Bhulan nor the said dependant came to him. The case record is put up today on the basis of the order of the Court though it is fixed on 14-02-13. It has been submitted in the petition filed by Sri Suresh Bhuiya that he wants to withdraw the case as the management has expressed their view vide Letter No. BK/PD/KSC/58 dated 24-11-2012 that the management will consider his employment only if the case is withdrawn Sri Bhuiya prayed for the withdrawal of the case, on perusal of record I find that the copy of the above mentioned letter has also not been filed by or on behalf of Sri Suresh Bhuiya.

Considering the whole facts and circumstances stated above, the present reference case is dismissed as the name of the dependant of Late Lalkeshwar Bhulan is not mentioned in the Schedule nor any document has been

filed in this connection by the management. Hence the case is closed and accordingly the case stands dismissed.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Government of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

JAYANTA KUMAR SEN, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 465.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (सदर्भ संख्या 51/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2013 को प्राप्त हुआ था ।

[सं. एल-41012/54/2005-आई आर (बी-I)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 465.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 51/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the Industrial Dispute between the management of North-Western Railway and their workmen, received by the Central Government on 28-1-2013.

[No. L-41012/54/2005-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

I.D. No. .51/2006

SH. N. K. PUROHIT, Presiding Officer

Reference No. L-41012/54/2005-IR(B-I) dated : 18-05-2006

Smt. Grace
W/o Shri Tarachand,
C/o Mr. Gardner, 27A, Krishi Mandi,
Dorai Vyawar Road, Ajmer (Rajasthan)

V/s

Chief Manager (Factory),
North-Western Railway,
Ajmer

Present:

For the applicant : Ex-party.

For the Non-applicant : Sh.Balwinder Singh.

AWARD

6-12-12

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section (1) & 2 (A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudicatlon.—

"क्या नियोजक मुख्य कारखाना प्रबन्धक, उत्तर पश्चिम रेलवे, अजमेर के द्वारा अपने कर्मकार ताराचन्द को माननीय न्यायालय द्वारा दिये गए निर्णय से पूर्व ही रिमुअल फ्राम सर्विस (Removal from Service) दिनांक 29-2-1980 को कर वेतन लाभ दिनांक 29-2-1980 से कर्मकार की मृत्यु दिनांक 2-5-1996 तक नहीं दिया जाना एवं मृत्यु पश्चात् उसकी पत्नि को दिनांक 2-5-1996 से पेंशन एवं पेंशनरी लाभ नहीं दिया जाना उचित एवं वैद्य है ? यदि नहीं तो वह रेलवे प्रशासन से किस तरह से, कब से वेतन लाभ एवं पेंशनरी लाभ प्राप्त करने की अधिकारी है?

2. Pursuant to the reference order registered notices were issued to both the parties. Representative on behalf of the applicant filed statement of claim on 18-05-10 and reply to the claim statement was filed on 13-09-11. At the stage of filing rejoinder and documents none appeared on behalf of the applicant on 4-06-12. Therefore, ex-parte proceedings were drawn against the applicant on the said date and next date was fixed for evidence of the non-applicant.

3. Since, the applicant had not adduced any evidence in support of her claim and ex-parte proceedings were drawn against her, evidence was not adduced by the non-applicant also.

4. Heard learned representative on behalf of the non-applicant.

5. Initial burden was on the applicant to establish her case put forth in the statement of claim. The claim of the applicant has been denied by the non-applicant. The applicant has not adduced any oral or documentary evidence to substantiate her case. After ex-parte proceedings drawn against her on 4-6-12 the applicant did not turn up on subsequent dates 16-8-12, 25-9-12 and 4-12-12.

6. In above factual backdrop it appears that the applicant is not interested to contest the case further. There is no material on record to adjudicate the reference

under consideration on merits. Therefore, 'no claim award' is passed in this matter. The reference under adjudication is answered accordingly.

7. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 466.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 54/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2013 को प्राप्त हुआ था ।

[सं. एल-12012/412/1999-आई आर (बी-I)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 466.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 28-1-2013.

[No. L-12012/412/1999-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/54/2000

SHRI MOHD. SHAKIR HASAN, Presiding Officer

Shri Vijay Kumar Jharia,
C/o Shri D. D. Mishra,
Daupara Chowk,
Mungeli,
Distt. Bilaspur (MP) ... Workman

Versus

The Assistant General Manager,
State Bank of India,
Region- II, Nehru Chowk,
Bilaspur (MP) ...Management

AWARD

Passed on this 10th day of December, 2012

1. The Government of India, Ministry of Labour vide its Notification No. L-12012/412/99/IR (B-I) dated 17-2-2000/ 22-2-2000 has referred the following dispute for adjudication by this tribunal: —

> "Whether the action of the management of State Bank of India, Regional Office, Bilaspur in removing from services of Shri Vijay Kumar Jharia, Head Assistant is justified and legal. If not, to what relief the said workman is entitled to?"

2. The case of the workman, in short, is that he was appointed as cashier-cum-clerk in the year 1977 in the management Bank. His service was satisfactory during the entire period and was promoted time to time. He was working as a Head Assistant when he was terminated from services vide order dated 9-10-98. He was charge-sheeted for the alleged misconduct. He denied the charges but the departmental proceeding was initiated. He was Regional Secretary of the State Bank of India Staff Congress Union till the year 1997. The Enquiry Officer conducted the proceeding. He was not given full opportunity to defend himself. The finding of the Enquiry Officer was perverse, illegal and was not supported with the evidence. The Disciplinary Authority passed the order dated 9-10-98 of termination from services. He preferred an appeal but the Appellate Authority without application of mind only modified the order of dismissal but infact no relief was granted to the workman. It is submitted that the workman be reinstated with full back wages after setting aside the impugned order.

3. The management appeared and filed Written Statement. The case of the management, interalia, is that admittedly he was appointed as cashier-cum-clerk in the State Bank of India on 4-11-1977. Subsequently he was promoted as Head clerk and was posted at Pendra Road Branch of the Bank. While he was working there, he committed gross misconduct. He was chargsheeted on 24-6-94. The workman admitted the charge and requested for clemency. The Disciplinary Authority considering his first misconduct imposed the punishment of "warning" in terms of Para 521(5)(B) of Sastry Award. He did not improve his conduct and again passed a forged cheque. He was again charge sheeted on 25-7-1994. He gave reply denying the charges. The Disciplinary Authority initiated a departmental proceeding. After enquiry, he was found guilty of gross misconduct and was punished by the Disciplinary Authority by imposing a punishment of bringing down to lower stage by two increments for two years in terms of Para 521(5)(C) of Sastry Award. The workman preferred an appeal and Appellate Authority upheld the decision. He again committed gross misconduct

in the year 1995 relating to the consumer loans and the dress provided to the subordinate employees. He was suspended and was chargesheeted on 8-11-1996. He denied the charges but the Disciplinary Authority initiated a departmental proceeding against him. He was given full opportunity to defend himself. After conclusion of the enquiry, the Enquiry Officer submitted his report on 28-1-1998 holding him guilty of the charges. The Disciplinary Authority after perusing the entire enquiry issued a showcause on 20-7-98 proposing the punishment of dismissal under Para 521 (10)(B) of the Sastry Award and gave opportunity of personal hearing. Lastly the Disciplinary Authority passed the order dated 13-8-98 dismissing Shri Jharia from services. The order was served on him on 9-10-98 . He preferred an appeal on 26-11-98. The Appellate Authority after giving him opportunity of personal hearing took a lenient view and commuted the punishment of dismissal to removal from service in terms of Sastry Award — Para 521 (5)(B) vide order dated 10-6-1999. Because of modification of the punishment, the workman became entitled to get Contributory Provident Fund (CPF) in lieu of his own Contribution. The workman has already accepted the amount of CPF and other terminal dues to the tune of Rs.3,32,322 without protest and therefore he is stopped from challenging the Appellate Order. It is stated that there is no illegality in imposing punishment on the workman. It is submitted that the reference be answered in favour of the management.

4. On the basis of the pleadings of the parties, the following issues are framed on recast for adjudication—

I. Whether the departmental enquiry conducted against the workman is legal and proper?

II. Whether there is any perversity in the findings of the Enquiry Officer?

III. Whether the punishment of removal from service of the workman is harsh and disproportionate to the charges proved?

IV. To what relief the workman is entitled?

5. Issue No. I

This issue is taken up as preliminary issue. After hearing the parties and after perusing the record and the papers of the departmental proceedings, it is held that the departmental proceeding conducted by the management is legal, valid and proper vide order dated 28-10-2010. Thus this issue is already earlier decided against the workman and in favour of the management.

6. Issue No. II

The workman has raised the propriety of the findings of the Enquiry Officer. It appears that there were three charges. The enquiry Officer had found the charge nos. 1 and 3 as proved and the charge No. 2 is partly proved. No. fresh evidence is adduced before the Tribunal on the point of charges. The papers of departmental proceeding shows that the witnesses had supported the charges. There is no reason to interfere in the finding of the Enquiry Officer. It appears that the findings of the Enquiry Officer is not perverse. This issue is decided against the workman and in favour of the management.

7. Issue No. III

It is an admitted fact that the workman was charge-sheeted earlier also on two occasions. At the first instance, he admitted the charges and taking it leniently so. that he would amend himself and only warning was awarded. Subsequently again he committed misconduct which was proved in the departmental proceeding. He was thereafter imposed the punishment by bringing down to lower stage by two increments for two years. This shows that the previous conduct of the workman was not satisfactory. Again he committed misconduct and the same was established in the departmental proceeding. Thereafter the Disciplinary Authority passed the order of dismissal which was reduced in appeal as removal from service by the Appellate Authority. Considering the above circumstances of the case, I donot find any reason to interfere in order of punishment awarded by the Appellate Authority. I find and hold that the punishment awarded to the workman is just, proper and appropriate to the offence committed by him. This issue is also decided against the workman and in favour of the management.

8. Issue No. IV

On the basis of the discussion made above, I find that the action of the management is justified and the workman is not entitled to any relief. The reference is accordingly answered.

9. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 28 जनवरी, 2013

का.आ. 467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्व रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 213/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2013 को प्राप्त हुआ था ।

[सं. एल-41011/71/1992-आई आर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 28th January, 2013

S.O. 467.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 213/1996) of the Central Government Industrial Tribunal-cum-

Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of S. E. Railway and their workmen, received by the Central Government on 28-1-2013.

[No. L-41011/71/1992-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/213/96

Presiding Officer: SHRI MOHD.SHAKIR HASAN

Shri Sagir Ali,
S/o Mohd. Basir Ali,
Qr. No. 90-A,
Rly. Colony,
Bhilai-3, Distt. Durg (MP) ...Workman

Versus

Divisional Railway Manager,
S. E. Rly., Bilaspur ...Management

AWARD

Passed on this 6th day of December, 2012

1. The Government of India, Ministry of Labour vide its Notification No.L-41011/71/92-IR(B-I) dated 20-12-96 has referred the following dispute for adjudication by this tribunal :—

> "Whether the action of the management of DRM, South Eastern Railway, Bilaspur MP in terminating the services of Shri Sagir Ali and nine others is legal and justified? If not to what relief the workmen are entitled?"

2. The case of the workmen in short is that they have filed separate statement of claims but the facts of these workmen are same. It is stated that they were appointed by the S.E.Railway, Bilaspur Division in between February and March, 1990 and worked for one to three months be fore termination on different dates. Thereafter their services were terminated without assigning any reason and without giving any notice in contrary to the principle of natural justice. Subsequently it was intimated that the services of the workmen alongwith 150 workers were terminated on the ground that they had obtained employment on furnishing false certificates and documents. The ground of termination is a stigma and these workmen are entitled to be provided opportunity of hearing before termination. Out of 150 employees, some persons filed application under Section 19 before the Central Administrative Tribunal, Jabalpur and they have been reinstated by the CAT, Jabalpur in various separate applications. It is stated that heir termination is illegal and the management be directed to reinstate them with back wages.

3. The management appeared and filed Written Statement in the case. The case of the management, interalia, is that the General Manager, SE Railway had accorded sanction of 900 posts of casual labour for Bilaspur Division with a direction to take only old faces who are borne in the approved list of casual/live register. A memorandum was issued directing the applicants to submit their past working certificate/caste certificate. The screening was conducted and a list was published wherein it was clearly mentioned that if the working certificate/ caste certificate and service certificates would be found false at any time during their engagement, their services would be terminated automatically without any notice. The past service certificates were subsequently found false during the course of detailed scrutiny and their services were terminated. The matter was raised by some of the persons before the CAT, Jabalpur. It is further stated that the Hon'ble Administrative Tribunal, Jabalpur directed the Railway Administration to hold an enquiry into the matter after giving proper opportunity to the applicants/workers. Accordingly the Railway Administration nominated an Enquiry Officer who conducted the enquiry and gave opportunity of hearing to the workers other than these workmen and after completion of the enquiry submitted his report. It is stated that the workers were asked to submit documents but they didnot file any document in their claim. Hence they were terminated vide order dated 24-11-98. It is submitted that there is no merit in the claim of the workmen and the same be dismissed.

4. On the basis of the pleadings of the parties, the following issues are framed on recast for adjudication—

I. Whether the departmental enquiry conducted by the management against the workman is legal, valid and proper?

II. Whether the action of the management in terminating the services of the workmen in reference is justified?

III. To what relief the workmen is entitled?

5. Issue No. I

This issue is taken up as preliminary issue. The order dated 16-3-2012 clearly shows that it is held that no proper departmental enquiry was held and therefore it was found not proper, legal and valid. Thus this issue is already decided on 16-3-2012 in favour of the workmen and against the management.

6. Issue No. II

Now the important point for determination is as to whether the action of the management in terminating their services is justified. The following facts are admitted by the parties.

1. These workmen were appointed by the S.E.Railway, Bilaspur Division in the year 1990 and worked for one to three months.
2. Subsequently they were intimated that their services alongwith 150 employees were terminated on the ground of producing false certificates and documents.
3. No proper departmental enquiry was held before terminating them nor any notice was given before termination.
4. Similarly situated workers filed application before the Hon'ble Central Administrative Tribunal, Jabalpur against their termination.
5. These workers had worked only for one month to three months during employment of the management.

7. According to the workmen, they were terminated from services by the management after making allegation of obtaining employment by producing false certificates and documents as such there was an allegation of misconduct against the workmen. Admittedly they had not been given proper opportunity to defend themselves. On the other hand, the management has contended that a memorandum was issued wherein it was mentioned that the applicants/ workmen had to enclose their past service certificates alongwith applications and if the working certificates, caste certificate and service certificate are found false at any time during their engagement, their services will be terminated automatically without any notice. It is stated that their service certificates were found false and their services were terminated.

8. The important question is as to whether it is established that the service certificates or working certificates furnished by the workmen were false and fake. the workmen are examined in the case. The workman Sagir All has supported his case. He has stated that he worked from Feb 1980 to May 1980 at Bhilai under Kader, IOW who gave him casual card which he had deposited when circular was issued. He denied that the casual card is fake and false. His evidcencc shows that he was terminated on the allegation of false casual card but no notice was given to him before termination to prove the genuinety of casual card. Another workman K. Limapati Maheshwar Rao has also supported his case. He has also stated that earlier he worked at Raipair under PWI Shri Murty and Shri Murty had signed over his casual card. He has further stated that he was again employed under a scheme. His evidence shows that he had worked earlier as per the requirement of the scheme and he had not been given opportunity to defend himself while terminating him from service.

9. Another workman Shri M.Appa Rao has also supported his case. He has also corroborated other witnesses that he was appointed as per scheme and worked two to three months. Another workman Shri K.Kundal Rao is also on the same point. He has stated that he had given service certificate of Umaria. Another workman Shri D.Ishwar Rao has also supported that he worked earlier in 1980 at Kumhari and certificate was given by Shri Murty PW I. His evidence also shows that he was not noticed before termination on the allegation of false certificate.

10. The workmen Shri U.P. Chalpat Rao, Shri ishwarlal and Shri B.G.R.Rao are also on the same point. Thus the oral evidence of the workmen clearly shows that they had worked previously and service certificates and casual cards were issued to them by the PWI. It is also clear from their evidence that again he was employed in the services of the management on the basis of past service. It is also evident that they had been terminated without giving them opportunity to properly heard for defending the allegation of misconduct that they had furnished false certificates or casual cards. It appears to be a stigma on the character of the workmen and the principle of natural justice is required to be followed before terminating from the services.

11. The workmen have also adduced documentary evidence in the case which is adm itted by the management. Exhibit W/1series are engagement of casual gangman engagement letters which were issued on different dates in Feb.1990 whereby these workmen were engaged named in the reference vide Office Letter no. E/G E/Rect/ CI/IV/Engg./Gang dated 14-2-90. This engagement letter further shows that they were engaged as casual Gangmen on daily rate of pay and those who had attained the temporary status and got CPC Scale of Pay will be eligible to gel the CPC Scale of pay. This engagement letter also shows that they were engaged in terms of the office letter No. Dated 14-2-90. Thus the documentary evidence adduced by the workmen clearly indicates that they were engaged in terms of the office letter No. quoted above and were casual gangmen on daily rate of pay. The said office tetter is not filed by the workmen but the management has filed which is to be discussed later and is Exhibit M/3.

12. On the other hand, the management has also adduced oral and documentary evidence in the case. It is not out of place to say that the workmen were admittedly terminated from the services solely on the ground that the alleged service certificates and casual cards submitted by the workmen were fake and false. Since this allegation is asserted by the management in the pleading and therefore

the burden is on the management to prove that service certificates and casual cards were fake and false. The management has examined two witnesses in the case. The management witness Shri Vikas Kumar is working as Section Officer, Umaria. He has come to support the case of the management. He has proved the report of Inspector of Works, Bhilai (Exhibit M/1) but he was not competent to prove the same as he doesnot know as to who had signed over the same. He has stated that he was posted as Section Engineer from 2-5-2000. At para-13 he has stated that he has deposed on the basis of the record which is filed before the Tribunal. This clearly shows that he has no personal knowledge nor he had examined or verified any of the service certificates and casual cards filed by the workmen before the management. He has further stated that he had not seen any verification report. He has stated at para-12 that experience certificate of Sagir Ali was of Bhilai and on the basis of verification report, the certificate is fake and false which is Exhibit M/1 but Exhibit M/1 is not properly proved by this witness nor the maker of the report is examined by the management. As such the said verification cannot be relied. He has further stated that he does not know the documents of other nine workmen which were submitted by them. He does not know as to whether any notice or enquiry was conducted against these workmen. He appears to be not competent to prove that Service Certificates and Casual Cards filed by the workmen were take and false on the basis of which they were terminated from the services. It appears that the management has taken it very casualy and also has not examined competent witness who is said to have granted service cards and certificates or who had verified the certificates. His evidence is not trustworthy to be considered in the case.

13. Another witness Shri L.R. Gupta is also working as Section Engineer and is also officer-in-charge of the case. He has stated that these workmen were appointed in the Railways in the year 1990 as casual gangman in accordance with the notification who has previously worked as casual labour in the Railways Organisation. He has further stated that the department carried out mass verification of the certificates and on detailed investigation after scruitinizing of records, the certificates of 140 candidated were found fake. The management has failed to produce in Court any verification reports nor the detailed investigation report is filed to substanitiate the charges that service cards and service certificated are false and fake. In absence of documentary evidence, the oral evidence of this witness is not reliable. He has further stated at para-7 that those records and documents were stoled away from the chamber/office of the Investigation officer, APO/BSP Bhasker Rao and the management lodged FIR at Thana Torwa Police Station, Bilaspur and submitted a list of documents and file name list which were stolen. This fact is also not corroborated by filing the copy of FIR nor Shri Bhasker Rao is examined to corroborate the fact that the records and documents were stolen away nor the list of documents and files were submitted which was prepared at the place, nor the progress or the result of the investigation of the police is filed. Simply oral evidence that the record and documents had been stolen away is not sufficient to prove that the allegation of theft of the management is true. He has futher stated at para-14 that again the certificates of Shri Sagir Ali and K. Umapati Mahesh Rao were examined by Unit office of Senior Section Engineer (P.Way) Umaria and declared the certificates as false. It is surprising that at one stage this witness has stated that the documents of the workers and files of investigation were stolen away, then as to how the management got certificates of these two employees. Moreover the report is simply not tenable unless and until the person who had submitted the report is not examined. The management did not care to examine the person who had examined and gave the report. This part of the evidence of this witness is not reliable and acceptable.

14. The learned counsel for the workman has submitted that the pleading of the management is that as per Railway Boards instruction, the General Manager, SE Railway had accorded sanction of 900 posts of casual labour for Bilaspur Division to engage the old faces who are borne in the approved list of casual/live register at that time. This itself shows that the management had approved list of casual/live register. It is clear that on the basis of approved list and live register, these applications of the workers were entertained and they were engaged as gangmen. The management has intentionally concealed that approved list of casual labour and live register as to whether the names of these workmen are recorded in Live Register or not. There is no case that the old faces who are borne in the approve list of casual/live register had been stolen away. Thus the oral evidence adduced by the management is not able to sufficiently prove that the certificates and casual cards of these workmen are fake and false.

15. The management has also adduced documentary evidence. Exhibit M/1 is a report given by one Sudhakar Rao, Sr. Clerk. This document is not properly proved by the management witness Shri Vikash Kumar. In cross-examination at para-10 he has stated that he did not identify the signature on the report Shri Sudhakar Rao is also not examined in the case Simply report without examination of the maker of the report, is inadmissible. This document is not fit to be relied in evidence. Exhibit M/2 is the engagement of casual gangmen letter dated 20-2-90 whereby the workmen Sagir Ali, K.Umapati M. Rao were appointed. The workman has also filed this document which is marked as Exhibit W/1 The relevancy is already earlier discussed. Exhibit M/3 is the office letter No. E/GE/ Rect/Cl. IV /Engg/Gang dated 14-2-90 whereby the applications were invited on the terms and conditions of

old faces who had earlier worked with the management. It is true that there was a prerequisite condition that if the working certificate/caste certificatc/service certificates will be found false, their engagement will be terminated automatically without notice. The discussion made above clearly shows that the management has failed to prove that their certificates or casual cards are fake and false. It also appears that it is an allegation of misconduct, such as in any case the principle of natural justice is required to be followed. Thus this issue is decided in favour of the workmen and against the management.

16. Issue No. II

On the basis of the discussion made above, it is clear that the action of the management is not justified in terminating the services of the workmen without giving sufficient opportunity to defend themselves and without proving sufficiently that the certificates are fake and false, It also appears from the record that during the pendency of the reference proceeding, the workman Shri Ishwarlal died and his legal heirs are substituted on the record. Moreover there is no case of the workmen that after termination they are not in gainful employment. They have also not adduced any evidence on the said point. Considering all these aspects in the case, the management is directed to reinstate the workmen without back wages. However if the management so decides, then he is at liberty to initiate a departmental enquiry of these workmen after giving them full opportunity to defend themselves on the point of genuineness of the service certificates or casual cards. Since the workmen Shri Ishwarlal died, it is proper to give compensation to the heirs of the deceased workman. As such the management is directed to pay compensation of Rs.25,000 (Rupees Twenty five Thousand only) to the heirs of the deceased workman, Accordingly the reference is answered.

17. In the result, the award is passed without any order to costs.

MOHD. SHAKIR HASAN, Presiding Officer

नई दिल्ली, 29 जनवरी, 2013

का.आ. 468.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 227/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2013 को प्राप्त हुआ था ।

[सं. एल-12012/411/99-आई आर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th January, 2013

S.O. 468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 227/2011) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Delhi as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Bikaner & Jaipur and their workmen, received by the Central Government on 29-1-2013.

[No. L-12012/411/99-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE DR. R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DELHI

I.D. No.227/2011

Shri Sain Singh
C/o Shri Som Singh
PNB, Zonal Training Centre
A-28, Kailash Colony,
New Delhi. ...Claimant

Versus

The Branch Manager,
State Bank of Bikaner & Jaipur,
Janakpuri Branch, C-14, Janakpuri,
New Delhi. ...Management

AWARD

A daily wager on casual basis was engaged at it Janakpuri branch, New Delhi by the State Bank of Bikaner and Jaipur (in short the bank) in exigencies. He was paid for actual days of his work. Work was taken from him at different spells from September 1995 till August 1997. From August 1997 to August 1998, work was also taken from him intermittently. He was not engaged with effect from 24-08-1998. When his engagement came to an end, he raised a demand for reinstatement in service. His demand was not conceded to. Thereafter, he raised an industrial dispute before the Conciliation Officer. Since his claim was contested by the bank, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-12012/411/99-IR(B-I), New Delhi, dated 17-02-2000, with following terms:

"Whether the action of the Managing Director, State Bank of Bikaner & Jaipur, Ahimsa Bhawan, Shankar Road, New Delhi and the Branch Manager, State Bank of Bikaner & Jaipur, Janakpuri Branch, C-14, Janakpuri, New Delhi in stopping from duty all of a sudden to Shri Sain Singh,

Casual workman, with effect from 24-08-1988 after serving the bank on casual basis from 24-09-1995 from time to time and continuously in Janakpuri branch from 16-08-1997 is justified, legal and valid? If not, to what relief he is entitled to?"

2. Claim statement was filed by the daily wager, namely, Shri Sain Singh pleading that he was employed by the bank with effect from 24-09-1995, as a peon. He was paid on daily rate basis initially at Rs.50- per day and later on at Rs.60 per day and lastly at Rs.70 per day. He worked at Janakpuri branch of the bank. Duties of a sub staff were taken from him. He worked to the entire satisfaction of his superiors. He demanded equal pay with that of regular employees. No action was taken on his request On the other hand, his services were terminated on 24-06-1998. He had rendered continuous service with the bank. Neither notice nor pay in lieu thereof was given to him. Termination of his services is illegal and contrary to law. Auditors, in its report, have mentioned that he had worked as a peon on full time basis. He claims reinstatement in service with continuity and full back wages.

3. Bank demurred the claim, pleading that the claimant was engaged on contract basis to carry out some specified jobs. Casual work on various occasions was taken from him. He worked on 12 occasions in 1996, in 1997 work for 2 days was taken from him and in 1998 he had worked for 67 days only. He was paid for work rendered by him. He was never engaged as a regular employee. The bank had to follow recruitment procedure for engagement of a regular employee, which was not followed in the case of the claimant. Since he worked for intermittent period for short duration, he never completed 240 days service in any calendar year. Claimant has no right of being appointed as a sub staff in the bank. He has not pointed out as to when the auditors have reported that he rendered continuous service with the bank. His claim to demand equal pay as applicable to a regular employee is unfounded. Claim for reinstatement in service, made by the claimant, is devoid of merits. It may be dismissed with costs.

4. Vide order No.Z-22019/6/2007-IR(C-II), New Delhi dated 11-02-2008, the appropriate Government transferred the case to Central Government Industrial Tribunal No.II, New Delhi for adjudication. Vide order No.Z-22019/6/2007-IR(C- II), New Delhi dated 30-03-2011, the case was re-transferred to this Tribunal for adjudication by the appropriate Government.

5. Claimant has examined himself in support of his claim. Shri M.L. Khungar was examined by the bank to present its stand. No other witness was examined by either of the parties.

6. Arguments were heard at the bar. Shri R.S. Saini, authorized representative, advanced arguments on behalf of the claimant. Shri Rajat Arora, authorised representative, presented facts on behalf of the management. I have given my careful considerations to arguments advanced at the bar and cautiously perused the records. My findings on issues involved in the controversy are as follows:

7. In his affidavit dated 21-08-2002, tendered as evidence, claimant swears that he was employed in the bank as a peon since 24.09.1995. He was paid his wages at Rs.50 per day, which was later on enhanced to Rs.60 per day and lastly to Rs. 70 per day. He worked in Janakpuri branch of the bank. He was assigned different duties from time to time. He had worked ~to entire satisfaction of his superiors. He was informed that he was a casual employee. He demanded salary equal to a regular employee. His services were terminated on 26-06-1998, without assigning any reason. No notice or pay in lieu thereof was given to him. Bank auditors, in their report, have mentioned that he was working as full time peon on regular basis but was paid daily wages at Rs.70.00 per day. During course of his cross examination, he concedes that no appointment letter was issued in his favour. He also admits that his name was not sponsored by the employment exchange. He admits that the audit report was not seen by him wherein it was mentioned that he was working as a full time employee but was paid as daily wager @ Rs. 70 per day.

8. In affidavit Ex.MW1/A, tendered as evidence, Shri M.L.Khunger, unfolds that the claimant was engaged on contract basis for doing specific work like filling of water, arranging of statutory records and other miscellaneous work. He was never engaged as a peon. He worked for 12 days in 1996, 20 days in 1997 and 67 days in 1998. He never completed 240 days services in any calendar year. His engagement on few occasions would not confer status of regular employee on the claimant.

9. When facts unfolded by the claimant and those detailed by Shir Khunger are appreciated, it came to light that the claimant was engaged in Janakpuri branch of the bank for doing casual jobs. Though the claimant projects that he worked continuously at Janakpuri branch from 1995, yet no evidence was adduced to show continuity of service for a period for 240 days in any of the calendar year. The bank had relied on copy of applications and payment vouchers, on the strength of which wages were released in favour of the claimant. Copy of those application and payment vouchers were not disputed by the claimant. When those payment vouchers as well as applications are scanned, it came to light that facts unfolded by Shri Khungar got reaffirmation. It is emerging over the record through those applications and payment vouchers that the claimant was engaged intermittently by the bank for doing casual jobs. He worked for 12 days in 1996, for which he was paid by the bank. Claimant worked for 20 days in 1997 for doing miscellaneous work. He was engaged for 67 days in 1998.

10. Question for consideration would be as to whether the claimant rendered continuous service of 240 days with the bank in preceding 12 months from the date of termination of his service? For an answer to this proposition, it would be ascertained as to what the phrase 'continuous service' means. "Continuous Service" has been defined by section 25-B of the Industrial Dispute Act, 1947 (in short the Act) Under sub-section (1) of the said section, "continuous service for a period may comprise of two period Viz. (i) uninterrupted service, and (ii) interrupted service on account of (a) sickness (b) authorized leave, (c) an accident, (d) a strike which is not legal, (e) a lock-out, and (f) a cessation of work that is not due to any fault on the part of the workman, shall be included in the "continuous service." Sub-section (2) of the said section introduces a fiction to the effect that even if a workman is not in "continuous service" within the meaning of clause (1) for a period of one year or six months, he shall be deemed to in continuous service for that period under an employer if he has actually worked for the days specifled in clauses (a) and (b) thereof. In Vijay Kumar Majoo (1968 Lab. I. C.1180) it was held that one year's period contemplated by sub-section (2) furnished a unit of measure and if during that unit of measure the period of service actually rendered by the workman is 240 days, then he can be considered to have rendered one year's continuous service for the purpose of the section. The idea is that if within a unit period of one year a person had put in at least 240 days of service, then he must get the benefit conferred by the Act.

11. In Ramakrishna Ramnath(1970(2) LLJ 306), Apex Court announced that when a workman renders continuous service of not less than 240 days in 12 calendar months, he is deemed to have completed one years' service in the industry. It would be expedient to reproduce observations made by the Apex Court in that regard, which are extracted thus:

> "Under Section 25-B a workman who during the period of 12 calendar months has actually worked in an industry for not less than 240 days is to be deemed to have completed one year's service in the industry. Consequently an enquiry has to be made to find out whether the workman had actually worked for not less than 240 days during period of 12 calendar months immediately preceding the retrenchment. These provisions of law do not show that a workman after satisfying the test under Section 25-B has further to show that he has worked during all the period he has been in the service of the employer for 240 days in the year".

12. In view of above law, an enquiry has to be made to find out whether the workman actually worked for not less than 240 days during the period of 12 calendar months immediately preceding the retrenchment. For an answer ocular testimony of the claimant shall be construed in the light of documents proved. It is a settled proposition of law that the claimant had to lead evidence to show that in fact he worked for 240 days in 12 preceding months from the date of his termination. Mere filing of affidavit cannot be regarded as sufficient evidence for any Court or Tribunal to come to a conclusion that the claimant had, in fact, worked for 240 days in a year. Burden to prove that he rendered service for 240 days or more, lies upon the claimant, when such claim is denied by the employer. Law to this effect was laid in Range Forest Officer (2002 LLR 339) Issen Deinki (2003 SC (L&S) 113), Rajasthan State Ganganagar's Mills Ltd. (2004 (103) FLR 192) and Municipal Corporation, Faridabad (2004 (8) SSC 195).

13. workmen can discharge onus on him by adducing cogent evidence, which may be oral or documentary. In a case of an indusrial employee, possibility of not providing any appointment letter or wage slip, attendance register and termination letter by an empoyer cannot be ruled out. In case the workman wants the employer to produce the record and the latter opts not to produce it, the Tribunal may draw inference against the employer. In R.M. Yellatti (2006 (1) SCC 106), Apex Court was confronted with such a proposition wherein law was laid as follows:

"Analyzing the above decisions of this court, it is clear that the provisions of the Evidence Act in terms do not apply to the proceedings under Section 10 of the Industrial Disputes Act. However, applying general principles and on reading the afore-stated judgments, we find that this court has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner, there will be no letter of appointment or termination. There will also be no receipt or proof of payment. Thus in most cases, the workman can only call upon the employer to produce before the court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions however make it clear that mere affidavits or self-serving statements made by the claimant/workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year 16. The above judgments further lay down that mere non-production of muster rolls per se without any plea of suppression by the claimant workman will not be the ground for the Tribunal to draw an adverse inference against the management. Lastly, the above judgments lay

down the basic principle, namely, that the High Court under Article 226 of the Constitution will not interfere with the concurrent findings of fact recorded by the labour court unless they are perverse. This exercise will depend upon facts of each case."

14. The above position was again reiterated in recent judgements in Shyamal Bhowmik (2006(1) SCC 337), Sham Lal (2006 VIAD (SC) 1) and Gangaben Laljibhai and others (2006 VI AD (SC) 31).

15. Here in the case, claimant presents that audit report was not produced by the bank wherein it was mentioned that he was working as a full time employee but paid as daily wager @ Rs.70 per day. It.was argued by Shri Saini that despite opportunities given, bank had withheld: the audit report. Shri Saini claimed that in these circumstances, adverse inference may be drawn against the bank and audit report proved as Ex.WW1/7 may be read against them. To rebut submissions made by Shri Saini, Shri Arora; presents that Ex.WW1/7 is a fabricated document and it cannot be read in evidence. He highlights that applications and vouchers: which bear writings as well as signature of the claimant, bring it over the record that the claimant was engaged intermittently for casual jobs. Ex.WW1/7 has been perused by me. This document seems to be a part of a report. As is emerging over the record, various objections were raised on the working of the bank. One objection relates to unauthorised engagement of the claimant on the post of peon. It has been mentioned therein that the claimant was engaged on daily wage basis @ Rs.50.00 per day upto December 96, @ Rs.60 per day from January to February, 1997, and Rs.70/- per day from 1st March, 97 onwards. Though document speaks that the claimant has been working unauthorizedly as a peon on regular basis but it nowhere mentions details of the period for which he was engaged. Furthermore, it has not been pointed out therein as upto what period claimant worked with the bank. It is also mentioned that the claimant was paid in different names. It is not detailed as to how it came to light that the claimant was paid by the bank in different names. Claimant admits that he himself has not seen the audit report. Signature of the person, who recorded this report, does not appear on the document. Some initial purports to appear on it, but it cannot be said as to who had put it. The document is incomplete and lacks credibility. No evidence is brought forward as to from what source this incomplete document was procured. Under these circumstances, genuineness and authenticity of this document cannot be confirmed. EX.WW1/7 does not get status of legally admissible evidence.

16. Bank claims that audit report was not traceable. Such a claim cannot be said to be justified. It seems that the bank intentionally opted not to produce the audit report before this Tribunal. No privilege was claimed by the bank in respect of that document. Therefore, prima facie an ordinary prudent man may say that it is a case where adverse inference should be drown against bank to the effect that it had not produced the audit report intentionally. However, there are certain inconsistent facts which are to be noted. Claimant nowhere specifies the date or period when the allged audit report was recorded. At one point of time, he claims that the audit report was recorded by Shri B.K. Khanna and subsequently, he presented that Shri K.N. Khanna recorded that report. Other facet, which has emerged over the record through copy of the applications moved by the claimant and payments released in his favour through vouchers, has already been noted. These documents highlight that the claimant worked for 12 days in 1996, 20 days in 1997 and 67 days in 1998 Resultantly, I find that advers inference cann be drawn against the bank to: the effect that the claimant worked continuously with the bank for a period of 240 days in every calendar year, viz. 1996, 1997 and 1998.

17. In his affidavit, claimant,unfolded self serving words relating to the period for which he worked with the bank. He had not adduced any evidence to the effect that he worked continuously for more than 240 days in any calendar year with the bank. He would have done so by producing copies of his applications, which he had submitted for release of his wages. Those applications would have facilitated this Tribunal to arrive at a conclusion relating to the period for which the claimant had worked. He intentionally withheld evidence which ought to have been in his possession. Under these circumstances, I am constrained to conclude that the claimant has miserably failed to establish that he worked for a period of 240 days in preceding 12 months from the date of his alleged engagement by the bank. Under these circumstances, provisions of Section 25 F of the Act does not come into application. As projected by the claimant, he was engaged as a casual labour. He could not show that some person his junior to him was also engaged as casual labour by the bank. In such a situation, procedure for retrenchment as provided under Section 25 G of the Act could not be followed. Since none was employed by the bank after the claimant provisions of Section 25H of the Act also does not come into play. Act of the bank in not engaging the claimant for another spell is not violative of the provisions of the Act. Claimant is not entitled to any relief. His claim is liable to be brushed aside.

18. Assuming for sake of arguments that the claimant had shown a case in his favour, by way of presumption of facts and drawing an adverse inference against the bank, a question would arise as to whether he is to be reinstated in the service of the bank. Answer lies in negative. As projected above, the claimant was engaged as a casual labour intermittently. Procedure for recruitment against a

regular post of sub-staff was not followed. His engagement was dehors the rules. with such a situation the Apex Court was confronted in Uma Devi (2006 (4) SCC I) wherein it considered the propositionas to whether the persons who got employment, without following of a regular procedure or even from the back door or on daily wages can be ordered to be made permanent in their posts, to prevent regular recruitment to the posts concerned. Catena of decisions over the subject were considered and the Court declined the submissions of the workmen to be made permanent on the posts which were held by them in temporary or adhoc capacity for a fairly long spell. The Court ruled thus:

"With respect, why should the State be allowed to depart from the normal rule and indulge in temporary employment in permanent posts? This Court, in our view, is bound to insists on the State making regular and proper recruitments, and is bound not to encourage or shut its eyes to the persistent transgression of the rules of regular recruitment. The direction to make permanent the distinction between regularization and making permanent was not emphasized here-can only encourage the State, the model employer, to flout its own rules and would confer undue benefits on a few at the cost of many waiting to compete. With respect the directions made in Piara Singh (1992 (4) SCC 118) is to some extent inconsistent with the conclusion in para 45 of the said judgement therein. With great respect, it appears to us that the last of the directions clearly runs counter to the constitutional scheme of employment recognized in the earlier part of the decision. Really, it cannot be said that this decision has laid down the law that all ad-hoc, temporary or casual employees engaged without following a regular recruitment procedure should be made permanent."

19. Taking note of some of recent decisions the Apex Court held that the State does not enjoy a power to make appointments in terms of Article 162 of the Constitution. The Court quoted its decision in Girish Jyanti Lal Vaghela (2006 (2) SCC 482) with approval, wherein it was ruled thus.

"The appointment to any post under the State can only be made after a proper advertisement has been made inviting applications from eligible candidates and holding of a selection by a body of experts or a specially constituted committee, whose members are fair and impartial, through a written examination or interview or some other rational criteria for judging the inter se merit of candidates, who have applied in response to the advertisement made. A regular appointment to the post under the State or Union cannot be made without issuing advertisement in the prescribed manner which may in some cases include inviting applications from the employment exchange, where eligible candidate get their names registered. Any regular appointment made on a post under the State or Union without issuing advertisement inviting applications from eligible candidates and without holding a proper selection where all eligible candidates get a fair chance to compete would violate the guarantee enshrined under Article 16 of the Constitution" .

20. In P. Chandra shekhara Rao and other (2005(7)SCC 488) the Apex Court referred Uma Devi's case (supra) with approval. It also relied the decision in Uma Rani (2004(7) SCC 112) and ruled that no regularization is permissible inexercise of statuotry powers conferred in Article 162 of the constitution, if the appointment have been made in contravation of the statutory rules. In Somveer Singh (2006 (5) SCC493) the Apex Court ruled that appointment made without following due procedure cannot be regularized. In Indian Drugs & Pharmaceuticals Ltd. (2007 (1) SCC 408) the Apex Court reiterated the law and announced that the rules of recruitment can not be relaxed and court can not direct regulaisation of temporary employees dehors the rules, nor can it direct continuation of service of a temporary employee (whether called a casual, ad-hoc or daily rated employee) or payment of regular salaries to them.

21. In Uma Devi (supra) it was laid that when a person enters a temporary employment or get engagement as contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequence of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed for the post when an appointment to the post could be made only by following a proper procedure or selection in any concerned cases, in consultation with the public service commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek relief of being made permanent in the post. In view of those precedent neither continuance nor regularisation of services of the claimants can be ordered, since it would amount to back door entry into Government job.

22. In view of foregoing reasons, it is evident that the claim put forward by the claimant for reinstatement in the service of the bank is uncalled for. It deserves dismissal. His claim is accordingly dismissed. An award is passed in favour of the bank and against the claimant. It be sent to the appropriate Government for publication.

Dated : 5-12-2012

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 29 जनवरी, 2013

का.आ. 469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैनेजमैन्ट ऑफ कोलडैम हाईड्रो इलेक्ट्रिकपावर प्रोजक्ट और अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चडीगढ़ के पंचाट (आईडी संख्या 158/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2013 को प्राप्त हुआ था ।

[सं. एल-42012/221/2010-आई आर (डी यू)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th January, 2013

S.O. 469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 158/2010) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Koi Dam Hydro Electric Power Project & Others and their workmen, which was received by the Central Government on 15-1-2013.

[No. L-42012/221/2010-IR (DU)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT II, CHANDIGARH

Present: Sri A. K. Rastogi, Presiding Officer

Case No. I.D.158/2011

Registered on 24-5-2011

Shri Kiran Barman S/o Sh. Jyotish Barman, C/o Sh. Rajesh Kumar Sharma, President District CITU, District Committee Mandi, 221/10, Thanera Mohalla, Mandi.

...Petitioner

Versus

1. The General Manager, Kol Dam Hydro Electric Power Project, NTPC, VPO Barmana, Bilaspur.

2. Project Manager, Italian Thai Development Corporation Ltd., Kol Dam Hydro Electric Power Project, Village Kayan, P O Slapper, Tehsil Sundernagar, Mandi.

3.M/s. U.R. Infrastructure Company Private Ltd., Villiage Chamb, Post Office Harnora, Bilaspur.

4.The Managing Director, M/s. Right Tunneling Ltd., Village Kayan, PO Slapper, Tehsil Sundernagar, Mandi - 171002.

...Respondents

APPEARANCES:

For the workman None.

For the Management Sh. V.P. Singh for resp. No.1 & 4.

Sh. Hem Raj Sharma for Resp. No.2

AWARD

Passed on 17.12.2012

Central Government vide Notification No. L-42012/221/2010-IR(DU)) Dated 4-4-2011, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act,. 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal :—

"Whether the action of the management M/s. Right Tunneling Ltd.,Sub-Contractor of M/s.UR Infrastructure Co. Pvt. Ltd. a sub-contractor of M/s. Italian Thai Development Public Co. Ltd. in the Kol Dam Hydro Electric Project of NTPC, Barmana, Bilaspur (HP) vide their order dated 15-9-2008 in terminating the services of Sh. Tek Chand S/o Sh. Bal Bahadur without following the principle of 'Last come First go' is legal and justified? What relief the workman is entitled to?"

After receiving the reference notices were issued to the parties. Respondent No.1, 2 and 4 put in their appearance but claimant and the respondent No.3 did not turn up despite registered notice sent to them on 24-7-2011. Notices were not received back undelivered also. Hence the service was presumed on them. Workman and respondent No.3 remained absent on subsequent dates also.

On 6-6-2012 however it was noticed that in the Schedule the concerned workman has been described as Tek Chand S/o Sh. Bal Bahadur, while in the array of the parties at Serial No.6' workman has been described as Kiran Barman S/o of Sh. Jyotish Barman. Hence, a letter was written to the Ministry for necessary amendments in the reference as per order dated 6-6-2012 but no order was received from the Ministry till today.

Since the workman arrayed at Serial No.6 of the parties in the reference has failed to appear and file claim statement. Hence, a "No Dispute" award is passed in the case. Let two copies of the award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 29 जनवरी, 2013

का.आ. 470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिन्टेन्डेन्ट ऑफ पोस्ट मास्टर, पलटन सब डिविजन, सतारा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, सतारा (महाराष्ट्र) के पंचाट (संदर्भ संख्या 37/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2013 को प्राप्त हुआ था ।

[सं. एल-40011/20/2006-आईआर (डी यू)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th January, 2013

S.O. 470.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Satara as shown in the Annexure in the Industrial Dispute between the employers in relation to the Superintendent of Postmaster, Phaltan Sub Division, Satara and their workman, which was received by the Central Government on15-1-2013.

[No. L-40011/20/2006-IR (DU)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE HON'BLE JUDGE, LABOUR COURT, MAHARASHTRA, AT SATARA

(PRESIDED OVER BY P. M. KHAMBAYATE)

Reference(IDA) No. 37/2007

Between

Department of Post Master
Phaltan Sub Division
Phaltan. Tal.Phaltan
Distt. Satara

Through The Superintendent of Pos ... First party

And

Shri Sunil Shamrao Sonvalkar
At Po. Vadal
Tal.Phaltan Dist. Satara ... Second party

Coram :— P. M. Khambayate,
Presiding Officer
Labour Court, Satara.

Advocates :—(1) Shri. M.R.Pawar,
Advocate for the first party

(2) Shri. D.P.Todkar,
Advocate for the second party

AWARD

(Delivered on 19th day of December, 2012)

1. The present reference has been referred by the Government of India, Ministry of Labour and Employment, Central Government, New Delhi for deciding the question :—

"Whether the action of the management of the post office Phaltan, Dist. Satara in terminating the services of their workman- Shri Sunil Shamrao Sonvalkar w.e.f.14-12-2005 is legal and justified?"

2. In response to the notices issued to the parties, the second party workman filed his statement of claim at Ex.U-11.

3 The facts in brief of statement of claim are as under :—

The first party is the department of post at Phaltan, District Satara and is an industry within the meaning of Sec.2(j) of the I.D.Act. The second party himself is the workman within the meaning of Sec.2(s) of the I.D.Act. He was appointed by the first party as a Postman w.e.f. 11-5-2004. He was also directed by the first party to perform the work of post master and he was doing the said work. He was doing the duties regularly, but the first party has shown artificial breaks in his service with malafide intention. His service record is clean and satisfactory still he was not confirmed in service. The first party terminated him w.e.f. 14-12-2005. Prior to said termination, prior notice of one month was not issued to him nor the notice pay in lieu of notice was paid nor any compensation was paid to him. No chargesheet was issued to the second party and no departmental enquiry was conducted.

4 After termination of second party, first party recruited another temporary employee namely Mr. I.T. Lalge. The second party requested the Regional Labour Commissioner Pune to settle the dispute. However, it was not settled. The second party has no source of income. He tried to search another job, but did not get. Hence he is facing financial problem. Hence he prayed to declare his termination by the first party as illegal and the order of termination to set aside. He further prayed for reinstatement to his original post with continuity in service with full back wages.

5. The first party has filed its written statement at Ex.14. It is admitted that the department of post is an 'industry' and its employees are governed by the Central Civil Services Rules 1965. Hence the question does not arises for the present reference under Industrial Disputes

Act. It is submitted that the second party was temporary engaged by the first party as Gramin Dak Sevak Branch Postmaster w.e.f. 11-5-2004 to work in stop gap arrangement as the regular employee Mr. Wadale was kept off duty w.e.f. 22-4-2004. Mr. Vadale was removed from service w.e.f. 16-1-2006. The alleged post is permanent and is vacant from 16-1-2006. The second party was aware about the temporary provisional appointment and submitted written application dtd. 10-5-2004 accepting therein to be terminated at any time. He submitted that as per the GDS (Conduct & Employment) Rules 2001, the break period is required to be observed when the outsiders are engaged in Gramin Dak Sevak category. Hence when the break was given to the second party, he has not worked during the break period. According to first party, second party has not worked for more then 240 days in a calendar year.

6. According to the first party, the appointment of second party is purely on temporary basis as no recruitment formalities were followed. Hence there is no question of issuing one month's notice or of paying any compensation. He admitted that after termination of second party workman, one Mr. J.T. Lalge has been appointed as a regular Gramin Dak Sevak. It is specifically submitted that the ratio laid down by the Hon'ble Supreme Court in Umadevi's case is applicable to the present case. Lastly, he prayed for dismissal of case of second party with cost.

7. On the rival pleadings of the parties, issues have been framed by my Learned Predecessor at Ex. 16. I have given findings to them for the reasons discussed below.

Issues	Findings
(1) Whether the second party was appointed purely on temporary basis with his due consent by first party workman department?	.. Negative
(2) Whether the termination dtd. 14-12-2005 is illegal?	... Affirmative
(3) Whether the second party is entitled for the relief of reinstatement with back wages and continuity of service?	..reinstatement with Continuity of service but without back wages.
(4) What order?	..As per final order.

Admitted Facts:-

8. The second party workman was appointed on 11-5-2004 as a Post master Gramin Dak Sevak. After his termination, Mr. J.T. Lalge has been appointed in his place.

Reasons

9. The second party examamined himself at Ex. 27 and closed his evidence. The first party examined Mr. Umesh Shankarrao Janwade-the Assistant Superintendent of Post at Ex. 38 and closed his evidence.

As to Issue No. 1:-

10. According to the first party, the second party workman was appointed on purely temporary basis with the consent of second party. In support of the said contention, the first party examined Assistant Superintendent of Post namely Mr. Umesh Shankarrao Janwade at Ex. 38. His evidence shows that for making any appointment in the department, it used to be done by publishing an advertisement, to take written test and oral test. The second party workman was not appointed as per the said process, but his appointment was of stop gap arrangement. He pointed towards the application of the second party-workman, which is at Ex. 39 wherein it is contended that in para-5 his appointment will be seasonal and temporary and he will not claim if Mr. Vadale is taken on work. It is further submitted in the said application that in case if Mr. Vadale is not taken in service and if the second party workman is not considered for permanent appointment he will hand over the charge to the person to be appointed in the place of Mr. Vadale. Relying on the said application, the learned advocate for the first party argued that the second party-workman has himself bound by the obligation and hence according to him, there was a consent of second party-workman for the temporary service in place of Mr. Vadale, who was under suspension. The said agrument cannot be accepted, as the question arises as to who did ask the said workman to write such an application? The temporary vacancy of post of Mr. Vadale was only known to the first party. Hence it is inferred that all the information in the application must have been supplied by the first party. If the first party employer wanted to put any obligation there should be an order to that effect showing that the appointment of the second party was temporary and was on the stop gap arrangement during the suspension period of Mr. Vadale. But no such order has produced by the first party. There is no evidence by the witness of the first party that, any such order was issued. Under such circumstances, it cannot be inferred that as per the application of the second party-workman he was appointed on stop gap arrangement or that his appointment was temporary.

11. The learned advocate for the first party pointed towards the evidence of witness of first party (Ex.38), which shows that during the period from 14-6-2005 to 16-6-2005 and 19-9-2005 to 23-9-2005 the second party workman has not worked. Relying on the said evidence, he argued that, as the workman was not continuous in service, his appointment was of temporary nature. The said argument

cannot be accepted, as this witness during his cross examination at page no. 6 admitted that, during the said periods, the service break was given to the second party. Under such circumstances, the alleged application at Ex. 39 is not sufficient to draw the inference that the appointment of the second party-workman was on temporary basis, as there is no appointment order produced by the first party showing that the appointment was temporary. Hence I answer this issue in the negative.

As to Issue No. 2:—

12. It is admitted fact that the second party-workman was appointed as a Postman-cum-Post Master w.e.f. 11-5-2004. The evidence of the second party-workman at Ex. 27 shows that, since his appointment dated 11-5-2004, he was doing his duties regularly. However, the first party has shown the breaks in the service without any reason. First party witness has not given evidence as to during which period, the break was given, However, during the cross examination of the witness of first party namely Mr. Umesh Shankarrao Janwade (Ex. 38) it came on record that the breaks were given to the service of second party during the periods from 14-6-2005 to 17-6-2005 and from 19-9-2005 to 23-9-2005. It is further inferred from his cross examination that except the above two breaks, the second party workman was continuous in service from 11-5-2004 to 14-12-2005.

13. The witness of first party during his cross examination clarified that the post on which the second party was appointed was vacant post. It is sanctioned post. In the written statement at Ex. 14, it is submitted by the first party that Mr. Lalge has been appointed in the place of the second party. The witness of first party clarified during cross examination that the appointment of Mr. Lalge has not been done as per the recruitment process. Hence it is inferred that after the termination of second party workman, the first party appointed Mr. Lalge on the said post. The said post is the sanctioned post and was vacant. The learned advocate for the second party argued that Mr. Lalge was appointed only with a view to deprive the second paty of his rights. He contended that it is already proved that the second party was continuous in service from 11-5-2004 to 14-12-2005 except the two breaks, one is of three days and second is of five days. It is also admitted by the witness of the first party that, as it was not possible to continue a temporary employee for more than 90 days the above two breaks were given. Hence according to learned advocate for the second party, they were artificial breaks. I do agree with his argument as no cogent reason has been given by the first party about the breaks. There is no reason that the workman was guilty of any misconduct. There is no reason that the workman was absent. Hence both the breaks in service are illegal.

15. The learned advocate for the second party-workman further argued that as there is no reason for the two artificial breaks, one is of 3 days and another is of five days, the service of the second party should be presumed as continuous one from the date 11-5-2004 to 14-12-2005, which is more than 240 days. For that purpose, the learned advocate for the second party Mr. Todkar relies on the case law in The Zilla Parishad, Nagpur and another Vs Moreshwar, S/o Vithobji Mendhekar and another reported in 2004 LAB. IC 2505.

In the reported case, the respondent no. 1 i.e. workman was appointed on 5-12-1984. He wroked upto 15-5-1986 as a Waterman. But the break of one or two days was given in his service in each month. 18 appointment orders were issued to the workman in order to give breaks of one or two days. Under such circumstances, it was observed by the Hon'ble High Court that-

> The appointment of the respondent no. 1 cannot be considered to be for a fixed period so as to make clauses (bb) and (oo) applicable.
>
> In para-16, it is observed by the Hon'ble High Court that—
>
> In the instant case, there is no dispute that the respondent no. 1 was neither given one month's notice nor he has been paid wages in lieu of notice. So also, he has not been paid compensation at the time of retrenchment.
>
> The petitioner having failed to comply with the provisions of Section 25 F of I.D. Act, the respondent no.1 is deemed to have been continued in service and the termination of his service would be illegal void ab initio.

16. In the present case before this Court, two artificial breaks were given. One is of three days and another is of five days. No cogent reason has been given. Hence the said breaks were the artificial breaks. The second party was retrenched on 14-12-2005 without holding the enquiry, no retrenchment compensation was paid to him. The one month's notice was not issued to him, nor he has been paid wages in lieu of notice. Hence the ratio laid down in the aforesaid case law is fully applicable to the facts of this case. Hence relying on the observation of Hon'ble High Court, it is inferred that the second party workman is deemed to have been continuous in service for a period from 11-5-2004 to 14-12-2005 and the termination of his service is illegal and void ab initio and as such he has completed the continuous service of more than 240 days.

17. However, the learned advocate for the first party relies on the case law in Secretary, State of Karnataka and others and Uma Devi and Others reported in 2006 (109) FLR 826 wherein it is observed by the Hon'ble Supreme

Court that, the temporary employment cannot be resorted to defeat the very basic Constitutional Scheme of public employment.

18. However, the learned advocate for the second party relies on the observation of Hon'ble Supreme Court in the case Maharashtra State Road Transport Corporation & Anr Vs. Casteribe Rajya P. Karmachari Sanghatana reported in 2009 III CLR 262 wherein it is observed by the Hon'ble Supreme Court that :-

> The question that arises for consideration is whether the provisions of the Act denuded of the statutory status by the Constitution Bench decision in Umadevi 2006 II CLR 261 SC, Supreme Court held it in negative.
>
> The power given given to the Industrial and Labour Courts under Section 30 is very wide and the affirmative action mentioned therein is inclusive and not exhaustive.

It is further observed that :-

> The provisions of MRTU & PULP Act and the powers of Industrial and Labour Courts provided therein were not at all under consideration in the case of Umadevi.
>
> It is further observed by the Hon'ble Supreme Court' that :-
>
> Umadevi does not denude the Industrial and Labour Courts of their statutory power under Section 30 read with Section 32 of MRTU & PULP Act to order permanency of the workers who have been victim of unfair labour practice on the part of the employer under item 6 of Schedule IV where the posts on which they have been working exists. Umadevi cannot be held to have overridden the powers of Industrial and Labour Courts in passing appropriate order under Section 30 of MRTU and PULP Act, once unfair Labour practice on the part of the employer under Item 6 of Schedule IV is established.

Hence the observation in the case of Umadevi cannot be applied to the facts of present case and unfair labour practice has been found.

19. As discussed earlier, it is inferred that the second party workman has been found retrenched illegally without compliance of Section 25-F of the Industrial Disputes Act, the termination of second party is illegal hence I answer this issue in affirmative.

As to Issue No. 3:—

20. This issue is in respect of the prayers of reinstatement, continuity of service and back wages.

21. The cross examination of the workman i.e. second party at Ex. 27 shows that he was doing the labour work and was getting Rs. 150 per day. He denied that he did not make any application for getting the work or service. However, though he denied it, but has not produced any document on record to show that he made any application for getting the service. Hence it is not proved by him that he tried to get the service.

22. It is admitted fact that the complainant was terminated w.e.f. 14-12-2005. The learned advocate for the first party argued that the second party did not approach the Court or the Labour Commissioner immediately. The reference order at Ex. 1 shows that the reference was sent to the Asstt. Commissioner of Labour Pune on 17-11-2006. Hence he must have applied to the Central Authority immediately. However, there is no evidence by the second party that he tried to get the employment. Hence he is not entitled for the back wages.

23. However, for the prayer of reinstatement, once it is held that the termination of the secoond party is illegal, and as it has come on record that the post on which the second party workman was appointed is the permanent post and was vacant due to the removal of Mr. Vadale and as the another employee Mr. Lalge has been appointed without observing the recruitment procedure, the said post is deemed to be vacant and hence the second party is entitled for reinstatement.

24. For continuity in service :- The termination i.e. retrenchment of the second party dt. 14-12-2005 is found illegal. Hence he is entitled for the continuity of service. Hence the second party is entitled for reinstatement to his original post with continuity of service, but without back wages. Hence I answer this issue accordingly.

25. After giving the findings, I pass the following order.

ORDER

(1) The reference is partly allowed.

(2) It is hereby declared that the termination of second party workman dt. 14-12-2005 is illegal.

(3) The said order of termination is hereby set aside.

(4) The first party is directed to reinstate the second party to his original post with continuity in service.

(5) The second party workman is not entitled for any back wages.

(6) The parties to bear their own costs.

P.M. KHAMBAYATE, Presiding Officer

Satara
Dt. 19 December, 2012

नई दिल्ली, 29 जनवरी, 2013

का.आ. 471.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, बी.एस.एन.एल., नागौर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 25/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2013 को प्राप्त हुआ था।

[सं. एल-40012/69/2009-आईआर (डी यू)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th January, 2013

S.O. 471.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2009) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of the General Manager, BSNL, Nagaur (Raj.) and Others and their workman, which was received by the Central Government on 15-1-2013.

[No. L-40012/69/2009-IR (DU)]

SUMATI SAKLANI, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Sh. N.K. Purohit, Presiding Officer

I.D. 25/2009

Reference No. L-40012/69/2009-IR(DU) dated 4-9-2009

Smt. Banarsi Devi
W/o Shri Nemi Chand
R/o Gorakh Chowk, Harijan Basti,
Nava, Nagaur (Raj.)

V/s

1. The General Manager
Bharat Sanchar Nigam Limited
Nagaur (Raj.)

2. The SDO(T),
Bharat Sanchar Nigam Limited
Kuchaman City, Nagaur (Raj.)

Present:

For the applicant — Sh. Rajesh Khanna

For the non-applicant — Sh. Sudeep Mathur

AWARD

7-12-2012

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2 (A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following industrial dispute to this tribunal for adjudication:—

> "Whether the action of the management of the BSNL, Jaipur in terminating the services of Smt. Banarasi Devi w.e.f. 16-2-2009 is legal and justified? If not, what relief the workman is entitled?"

2. Brief facts narrated in the statement of claim are that the applicant Smt. Banarsi Devi was employed by the non-applicant BSNL as part time Safai Karamchari in the year 1986. Initially she was being paid Rs. 10 p.m., thereafter, amount was enhanced from time to time and in the end she was being paid Rs. 300 p.m. as salary. The applicant had worked continuously during period 1986 to 23-2-09. When dispute regarding payment of lesser wages was raised by her, the non-applicant terminated her services on 24-2-09 without any notice or compensation in lieu of notice.

3. The applicant has pleaded that despite she had worked continuously for about 24 years and had worked for more than 240 days in a year, her services have been terminated illegally. Thus, the applicant has prayed that her termination be declared illegal and she should be reinstated along with back wages and interest thereon.

4. The non-applicant filed its reply to the claim, in which, it is denied that she was appointed as part time safai karamchari. It has been averred that the applicant did not work with SDOT, Nagaur and no appointment letter was ever issued to her. It has been denied that workman had worked at Kandla Tower of the non-applicant. It has been averred that there was no Tower at Kandla. The non-applicant has further averred that as and when required the work of cleaning was used to be taken from the applicant or any person doing such job through contract system and payment was being made through ACJ-17 form. Since, the applicant was not employed by the non-applicant, her claim be rejected.

5. In evidence, the applicant filed her affidavit and documents Ex.W-1 to W-6 in support of her claim. In rebuttal, the non-applicant has filed the counter affidavit of Sh. D.R. Meena, SDO, BSNL, Kuchamancity, Nagaur.

6. I have considered rival submissions advanced by both the parties and perused the relevant record.

7. In view of the pleadings of the parties, following questions crop-up for considerations :—

(i) Whether the applicant had worked as part time safai karamchari during period 1986 to 23-2-09 and had worked more than 240 days during

preceding 12 months from the date of her termination 23-2-09 and whose services were terminated by the non-applicant in violation of Section 25-F of the I.D. Act?

(ii) What relief the applicant is entitled to?

Point No. I

8. The applicant Smt. Banarasi Devi has stated in her affidavit that she was employed as part time safai karamchari in the year 1986 and she had worked as such till 23-2-09. She has further stated that when she made complainant regarding payment of lesser wages, her services were illegally terminated on 24-2-09 without any notice or compensation in lieu of notice. In her cross-examination she has admitted that no appointment letter was issued to her. She has also admitted that the contents in her application Ex-W-1 were correct.

9. In rebuttal, the management witness Shri D.R. Meena, SDO, BSNL, has stated that the applicant was never employed as part time worker or safai karmchari and salary was never fixed by the non-applicant. The work of cleaning was being done through contract system and payment was used to be made through ACJ-17 form after obtaining receipt. He had denied that the applicant had worked more than 240 days in any year.

10. Learned representative for the applicant contends that the applicant has proved her case by submitting her affidavit and documents Ex-W-1 to Ex-W-6. Further in reply, there is no specific denial of the fact that the applicant had worked as part time employee. The non-applicant has not produced any documents to show that the applicant had not worked for 240 days. The documents were in power & possession of the management and the same have not been produced, therefore, adverse inference should be drawn against the non-applicant. He further contends that the management has pleaded that work of cleaning was done on the basis of contract system whereas the management witness has denied this fact. He also contends that application of the applicant Ex-W-1 reveals that the applicant was working with the non-applicant & SDOT, Kuchamancity had recommended and forwarded her application Ex-w-1 for appointment as part time worker to higher authorities. The statement of the applicant finds support from the said document. It is established from the evidence adduced by the applicant that she was working under the employment of the non-applicant during period 1986 to 24-2-09 and had worked for more than 240 days in a year. The learned reresentative also contends that part time worker is workman as defined in Section 2(s) of the I.D. Act and before terminating his services, compliance of the mandatory provisions of Section 25-F was essential. In support of his contentions the learned representative has relied on 2011 LAB I.C. 3843, 2012 LAB I.C. (NOC) 10 (Raj.).

11. Per contra, the learned representative for the non-applicant submits that the applicant in her statement has stated that she was employed as part time safai karamchari in the year 1986 whereas in her application Ex-W-1 dated 27-6-98, she had prayed for her appointment as part time safai karamchari for performing two hours job. Even, if the application of the applicant was forwarded with recommendation, merely on this ground it cannot be inferred that the applicant was given appointment as part time worker. The applicant has not adduced any documentary evidence to prove that she had worked for 240 days in a year. He also submits that the applicant has failed to establish that she had worked for at least 240 days in a year preceding 12 months from the date of termination, therefore, provisions of Section 25-F are not attracted.

12. I have given my thoughtfull consideration to the rival submissions of both the parties.

13. To attract the provision of Section 25-F of I.D. Act one of the conditions required is that the workman is employed in any industry for a continuous period which would no be less than one year.

14. The expression "continuous periods" occur in Section 25-F has been defined in Section 25-B of the I.D. Act. Under sub-section (1) of the Section 25-B, if a workman has put in uninterrupted service of establishment including the service which may interrupted on account of sickness, outhorize leave, accident, a strike which is not illegal, a lock out or secession of work that is not due to any fault on the part of the workman shall be said to be continuous service for one year i.e. 12 months in respect of number of days he has actually worked with interrupted service permissible under sub-section (1) of Section 25-B.

15. Sub-section 2 of Section 25-B of the I.D. Act says that even if a workman has not been in continuous service for a period of one year as envisaged under sub-section (1) of 25-B of I.D. Act, he shall be deemed to have been in such continuous service for a period of one year if he has actually worked under the employer for 240 days in preceding period of twelve months from the date of his termination. The said sub-section provides for a fiction to treat a workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year.

16. In the background of the legal provisions set forth above, factual scenario in the present case is to be examined.

17. The initial burden was on the applicant to prove that she had remained under the employment of the

non-applicant as a workman for a continuous period of at least one year as envisaged u/s 25-F of the I.D. Act therefore, his termination without notice or compensation in lieu of notice was in violation of the said section.

18. The applicant in her statement of claim as well as in her affidavit submitted in evidence has stated that she was employed by the non-applicant as part time safai Karmchari in the year 1986 but in Ex-W-1 application dated 27-6-98 which is an admitted document, her prayer was for employment as part time worker for two hours. Admittedly, no appointment letter was given to her. It is evident from the document Ex-W-1 that prior to 27-6-98, she was not working as part time safai karamchari. Merely on this ground that her application Ex-W-1 was forwarded with recommendation for necessary action by the SDOT, Kuchamancity, it cannot be inferred that the applicant was given employment as part time safai karamchari.

19. It has been pleaded by the applicant in para 14 of the claim statement that she had worked for 240 days in a year continuously for about 24 years. It is not the case of the applicant that she had worked uninterruptedly for continuous period of one year as envisaged under sub clause 1 of the Section 25-B of the I.D.Act.

20. Thus, the scope of the enquiry is to be confined to only 12 months preceding the date of termination i.e. 24-2-09 to decide whether the applicant had completed 240 days during said period. In this regard except the affidavit of the applicant in her favour, there is no other corroborating evidence. Failure to prove defense by non-applicant does not discharge the burden of proof to establish that the applicant had worked for at least 240 days during preceding 12 months from the date of her termination.

21. The documents Ex-W-2 to W-6 produced by the applicant are not pertaining to actual working days of the applicant. Ex-W-2 is copy of Advocate's notice for enhancing daily wages. Ex-W-3 & Ex-W-6 are applications submitted before the RLC(C), Jaipur for enhancing wages and reinstatement respectively. Ex-W-4 is notice given by the RLC(C), Jaipur and Ex-W-5 is reply filed by the non-applicant before the RLC(C), Jaipur. In reply Ex-W-5 it has not been admitted that the applicant had worked as part time safai karmchari. The applicant has neither produced any document to establish that she had worked for at least 240 days during preceding 12 months from the date of her termination nor any request to call for documents from the non-applicant was made by her. Under these circumstances, no adverse inference can be drawn against the non applicant for not producing documents regarding actual working days of the applicant.

22. Thus, the applicant has failed to establish that she had worked at least 240 days during preceding 12 months from the date of her termination, therefore, provisions of section 25-F are not attracted in her case. Accordingly, this point is decided against the applicant.

Point No. II

23. In view of the conclusion drawn in respect of point no. I that alleged action of the non-applicant was, not in violation of the provisions of Section 25-F, the applicant is not entitled to any relief.

24. In the result, it is held that the action of the non-applicant in terminating the services of the applicant was not illegal & unjustified. Resultantly. the applicant is not entitled to get any relief. The reference under adjudication is answered accordingly.

25. Award as above.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 29 जनवरी, 2013

का.आ. 472.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, नेशनल टैक्सटाइल कारपोरेशन लि. कोयम्बटूर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 84/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-2013 को प्राप्त हुआ था ।

[सं. एल-42012/64/2012-आईआर (डी यू)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 29th January, 2013

S.O. 472.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 84/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to The General Manager, National Texitile Corporation Ltd. Coimbatore and their workman, which was received by the Central Government on15-1-2013.

[No. L-42012/64/2012-IR (DU)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 26th December, 2012

Present : A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 84/2012

(In the matter of the dispute for adjudication under clause (d) of sub- section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of NTC Mill and their Workmen).

Between

1. The Asstt. General Secretary Desiya Panchalai Thozhilar Sangam (INTUC) 1848, Trichy Road, Ramanathapuram Coimbatore-45	1st Party/1st Petitioner Union
2. The General Secretary Coimbatore District Mill Labour Union (CITU) 78.381/127, Anupparpalayam Kattoor Coimbatore-9	1st Party/2nd Petitioner Union
3. The General Secretary Kovai Mandala Panchalai Thozhilalar Sangam (NDLF) 32, Perumal Kovil Veedhi Vilankurichi Coimbatore-35	1st Party/3rd Petitioner Union
Vs.	
The General Manager National Textile Corporation Ltd. 35-B, Somasundaram Mills Road Coimbatore-641 009	2nd Party/ Respondent
Appearance:	
For the 1st to 4th Party/ Petitioner Union	Petitioners Default to Appear
For the 2nd Party/ Management	M/s. T.S. Gopalan & Co. ,Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42012/64/2012-IR(DU) dated 6-11-2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of National Textile Corporation, Coimbatore for not considering the demands of the Petitioner Unions viz Coimbatore District Mill Labour Union (CITU), Kovai Mandala Panchalai Thozhilalar Sangam (NDLF) and Desiya PanchalaiThozhilalar Sangam (INTUC) in respect of revision of wages and benefits is justifiable or not? If not, what relief the Petitioner Unions are entitled to?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 84/2012 and issued notices to both sides. Respondent appeared through advocate and Petitioners, 3 in number constituting the First Party did not appear in the dispute in spite of having been served with notice twice and by filing statement of claim complete with relevant documents, list of reliance and witnesses with copies thereof to the Respondent. When the matter stood posted from time to time for further steps and lately on 24-12-2012 for further proceeding also, petitioners were absent nor represented

3. In spite of service of notice for appearance the petitioners in the dispute did not turn up or let in any evidence in support of their case for answering the reference. Needless to say it is upon the petitioners to substantiate their case that not considering the demands of the Petitioner Unions in respect of revision of wages and benefits is justifiable or not and if not what relief the Petitioner Unions are entitled. When they wish the Court to be satisfied and made believe that it is so it is for them to discharge that burden which has not been done. The inevitable conclusion is that there has not been the denial, as alleged for want of proof.

4. The reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 26th December, 2012)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner	None
For the 2nd Party/1 st Management	None

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
	N/A	

On the Management's side

Ex.No.	Date	Description
	N/A	

नई दिल्ली, 30 जनवरी, 2013

का.आ. 473.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स पारादीप पोर्ट ट्रस्ट, पारादीप के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 110/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-1-2013 को प्राप्त हुआ था।

[सं. एल-38011/2/96-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 30th January, 2013

S.O. 473.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 110/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the

Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Paradip Port Trust (Paradip)and others and their workman, which was received by the Central Government on 24-1-2013.

[No. L-38011/2/96-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, BHUBANESWAR

Present:

Shri J. Srivastava,
Presiding Officer, C.G.I:T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 110/2001

Date of Passing Award - 31st December, 2012

Between:

1. The Chairman, Paradip Port Trust,
Paradip. Pin - 754 142.

2. President, Cargo Handling Co-operative
Canteen, At./Po. Paradip,
Dist. Jagatsinghpur - 754 142.

1st Party-Managements.

(And)

Their workmen represented through the
General Secretary, Paradip Port & Dock .
Mazdoor Union, At. ATBK Sub-station,
Po. Paradip, Dist. Jagatsinghpur 754 142.

2nd Party-Union.

Appearances:

M/s. Gautam Miswhra & S.K. Patra, Advocate	For the 1st Party Management No. 1
M/s. Bijaya Sahu Advocate	For the 1st Party Management No. 2
M/s. B.C. Bastia, Advocate.	For the 2nd Party Union

AWARD

This reference has been made by the Government of India in the Ministry of Labour vide letter No. L-38011/2/96/IR (M), dated 14-8-1996 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947.

2. The reference relates to an industrial dispute existing between the employers in relation to the management of Paradip Port Trust and their workmen with respect to the following matter.-

Whether the claim of Paradip Port & Dock Mazdoor Union that the workers of Cargo Handling Co-operative Canteen to be treated as regular employees of Paradip Port Trust is justified? If so, to what relief the concerned workmen are entitled?

3. The 2nd Party-Union espousing the cause of the disputants has alleged in its statement of claim that the disputants as per Annexure- A of the Statement of claim are the workmen in the canteen which was constituted in the year 1983 under the resolution of the 1 st Party Management passed in Traffic Co-ordination meeting held on 4-7-1983 and it was decided that a canteen under the name and style of Cargo Handling Co-operative Canteen will be set up near the General Cargo berth within the prohibited dock area for providing food stuffs, tea etc. to the Dock workers and other employees working under the 1st Party Management. The said canteen was never registered under the Co-operative Societies Act and no bye-laws were framed. The 1st Party-Management provided furniture, utensils, free electricity, rent free accommodation, water supply etc. for running the canteen besides providing facilities of maintenance, renovation, extension etc. through its Engineering Department. All the 22 workmen designated as coupon seller, cook, helper, canteen-boy etc. have been working without any break since the setting up of the canteen in 1983. They are being issued with entry permit under the signature of the Asst. Commandant, CISF with counter signature of the officials of the 1st Party Management and provided with free lodging at the accommodation earmarked for the said canteen. The officers of the 1st Party-Management in the Traffic Department as also the Labour Officer make frequent inspections of the canteen and any grievance from the users are speedily attended to by them. The medical officer of the 1 st Party-Management also makes routine visits to inspect the general sanitary measures being taken by the canteen and forward the report to the Traffic Manager. One Labour Officer of the 1st Party-Management has been made in-charge of the said canteen. Shri N.C. Sahoo. Additional Traffic Manager (formerly the Deputy Traffic Manager) looked after and ran the said canteen from 1983 to 1993. Thereafter Shri K.S.G. Krishnan, Additional Traffic Manager is looking after and running the said canteen. Likewise Shri S.K. Mishra, Deputy Traffic Manager (L) and thereafter Shri K.K. Sahu, Deputy Traffic Manager (L) functioned as Secretary of the canteen. From the very beginning the Management Committee of the said canteen was composed of 11 to 13 members out of which Additional Traffic Manager, Deputy Traffic Manager (Operation), Deputy Traffic Manager (Labour) and Labour Officer of the 1st Party-Management were normally to be the President, Treasurer, Secretary and Joint Secretary of the committee respectively. Other members of the committee used to be nominated from the Dock Foremen,winchmen, Tally Clarks, General Labour etc. The meetings of the

Management committee are held at the office of the Deputy Traffic Manager (Operation), Central Documentation Centre and a copy of each meeting is invariably sent to the Chairman of the 1st Party-Management. The composition of the Managing Committee was changed by the 1st Party Management maliciously and with ulterior motive with effect from 7-12-1995. Since the wages of the workmen of the said canteen are very low in comparison to their nature of work the disputant workmen kept on raising the demand for regularization of their services under the 1st Party-Management When their demand was not attended to, they raised an industrial dispute before the Regional Labour Commissioner (Central), Bhubaneswar vide their letters dated 6-6-1995 and 22-6-1995. In the discussions and conciliation proceedings Shri K.S.G Krishnan, Additional Traffic Manager and the President of the said canteen took part on 24-11-1995. The Chairman of the 1st Party-Management sent his comments to the Assistant Labour Commissioner (Central) through a letter written by the Deputy Secretary (P) dated 22-11-1995 stating inter-alia that there is no cargo handling co-operative canteen at Paradip Port. Some cargo handling workers and employees are preparing tea and snacks for their refreshment in the dock site and the 1st Party-Management is not aware of the engagement of workers by these employees for the said purpose. The subsequent discussions and conciliation proceedings were not attended to by anyone from the side of the 1st Party-Management No. 1 and 2 and the conciliation proceedings consequently ended in failure. Before start of the conciliation proceedings one Shri Pitambar Behera came to the canteen on 25-8-1995 and torn the attendance register of the workmen for last two years and threw it to the fire of chullah. This incident was brought to the notice of Shri K.S.G Krishnan, Additional Traffic Manager and President of the Canteen vide letter dated 26-8-1995. Shri K.S.G Krishnan, Additional Traffic Manager of the 1st Party-Management and the President of the said canteen after attending discussion before the Assistant Labour Commissioner (Central), Bhubaneswar on 24-11-1995 called a meeting of the Managing Committee on 7-12-1995 and reconstituted the Managing committee making Shri R.S. Ram, Out-door Clerk as the President Shri Sarbeswar Biswal, Winchman as Secretary and Shri Pitambar Behera O.D.C as Treasurer of the committee. The post of Joint Secretary was abolished. The minutes of the meeting was signed by Shri K.K. Sahu, Deputy Traffic Manager (Labour) and issued to the members. Copy was not sent to the Chairman. A letter was sent on 18.12.1995 signed by Shri K.S.G Krishnan, Additional Traffic Manager as Ex-President to the Assistant Labour Commissioner, Bhubaneswar i.e. one day before the date of conciliation informing him that a new Managing Committee has been formed and future communication may be made with the new President/Secretary. Infact no election of the management committee was held on 7-12-1995 or on any other date. In this way the Ist Party- Management and its officers indulged in unfair labour practice in as much as they actively engaged themselves in suppressing and wiping out the evidence which might show and establish that the 1st party Management is running the said canteen for the welfare of their employees. Under the Dock Workers (Safety, Health and Welfare) Regulations the 1st Party - Management is under statutory obligation to set up, maintain and run a canteen for the welfare of their dock workers. Thus the 1st Party-Management runs, manages and controls the said canteen and the disputants are its employees and they need to be regularized and treated to be regular employees of the Paradip Port Trust and they are required to be paid their wages and other benefits as per All India Port and Dock Workers Wage Settlement and subjected to the same service conditions as are applicable to the regular employees of the Port with retrospective effect.

4. It has been stated by the 1st Party-Management No. 1 in its written statement that as per its information the Cargo Handling Co-operative Canteen was formed by some of the Cargo Handling Workers and Officers working inside prohibited area on co-operative basis. A fee of Re. 0.50 was charged as given membership fee and each member was issued with a share of Rs. 10. The committee nominated different employees/workers as its office bearers for smooth functioning of the canteen. The day to day decision was being taken by the executive committee of the canteen. The members of the executive committee are selected/ elected from time to time from amongst the members/share holders of the canteen. On the request of the canteen committee the Port Trust Management has provided a building with free electricity and water as a good gesture to the employees from the funds available in the welfare fund of Cargo Handling Workers and Casual Labourers. The staff engaged in the canteen was not recruited by the Port Trust and as such there is no employee and employer relationship between them. Though a resolution was passed by the Traffic Co-ordination meeting held on 4-7-1983, but the said resolution was not implemented by the Port Trust Management, nor any administrative circular was issued to that effect. The canteen staff was engaged by the executive committee of the canteen and wages etc. are paid to them by the executive committee of the said canteen from the resources with it. Thus workers were not paid by the Port Trust at any point of time. The said canteen not only serves to its members but also to outside agencies such as employees of TTSCO, FCT, truckers and other Port users working inside the prohibited area. Since the officers of the Traffic Department, Labour Officer and other officers are share holders/members of the Cargo Handling Co-operative Canteen/Executive Committee, they visit the canteen premises and advise them on the better functioning of the canteen. In order to avoid conflicts between various unions functioning in the Port Trust and discourage their intra union rivalry, the share holders of the canteen

unanimously nominated Port officers who are the share holders for smooth functioning of the canteen. This has nothing to do with the Port Management. The Port Management is not aware of the wage structure and benefits extended to the workers of the said canteen. Because of the involvement of the share holders/officers in day to day affairs of the Management of Cargo Handling canteen a false impression has been created that the canteen is run by the Port Management. To avoid such impression the members of the Executive Committee unanimously decided not to include any officer of the Port Trust in the Executive Committee and fresh committee was constituted. The sale proceeds of the canteen are not deposited in any of the account of the Paradip Port Trust. Rather they have a separate account in the name of the Cargo Handling Co-operative Canteen managed by the Executive Committee members.

5. The 1st Party-Management No. 2 has filed separate written statement and alleged that the dispute is not maintainable against the Paradip Port Trust since there is no employer and employee relationship between the Port Trust and the employees of Cargo Handling Co-operative Canteen. The said canteen had hired canteen-boys, cooks, and other staff on its own and their wages are paid by the canteen itself. The Port officers were involved in the matters of canteen to ensure its formation with financial and moral support from the Port Trust as a gesture of goodwill. The Port had agreed to provide basic infrastructure facilities on the request of the Canteen Committee. The canteen maintains share/membership register, dividend register and minutes book of the executive body which is held from time to time. The canteen which is situated inside the port prohibited area caters to the need of the employees and workers of the Port Trust, exporters and importers, truck drivers, visitors and workers of the construction companies. All port employees are not the members of the canteen. Therefore it will be grossly improper to presume that the canteen is the part of the Port and the same is controlled by the Port either directly or indirectly. Infact the canteen is independent of the Port. Neither the sale proceeds are deposited in the Port Trust nor the surplus money is shared by the Port Trust. The canteen is managed by the Managing Committee and that is responsible for the functioning of the canteen. On the date of reference there were 18 employees on the rolls of the co-operative canteen, not 22 as mentioned by the 2nd Party-Union. The canteen does not have a wage structure. As such its workers are paid monthly consolidates wages. They are also provided with free food and lodging inside the canteen premises. The new Managing committee constituted on 7-12-1995 is looking after the day-to-day management of the canteen. The 2nd Party-Union cannot raise any objection to the nature and composition of the Managing Committee. If any surplus funds are generated, dividends are distributed amongst its members. Had it been operated by the Port the members would not have been given the dividends.

6. The 2nd Party-Union in its rejoinder has reiterated its allegations made in the statement of claim. The Union has further brought the fact to the notice of this Tribunal that port officials, namely, Shri N.C. Sahu, K.S.G. Krishnan, S.K.Mishra, K.K. Sahu, Labour Officers and other port officials of the Management Committee were not the share holders of the canteen as alleged. The Port administration is fully aware of the poor wage structure and meagre benefits enjoyed by the workmen of the canteen. There is practically no registered co-operative society to run the dock canteen. The employees of the canteen get their wages from the Traffic Department of the Port and they are responsible to the Traffic Department. In such eventualities it cannot be said that the canteen is independent and run by the alleged co-opcrative society.

7. In view of the pleadings of the parties the following issues were framed.

ISSUES

1. Whether the claim of Paradip Port and Dock Mazdoor Union that the workers of Cargo Handling Co-operative Canteen to be treated as regular employees of Paradip Port Trust is justified?

2. If so, to what relief the concerned workmen are entitled?

3. Whether there is relationship of master and servant between co-operative society and management of Cargo Handling Co-operative Canteen?

8. The 2nd Party-Union has examined two witness in support of its claim. W.W.-1 is Nilamani Behera and W.W.-2 is Akshya Kumar Pattnaik. The Union has also relied upon seventeen documents marked as Ext.-1 to 17. On the other hand the 1st Party Management No. 1 has examined Sri Saroja Kumar Mishra as M. W.-1 and Suvendra Kumar Sahoo as M.W.-2 and relied upon five documents marked as Ext-A, B, B/1, B/2 and C.

9. The 1st Party-Management No.2 has examined Shri Pitamber Behera as M.W.-1 and relied upon several documents marked as Ext.-AA to Ext.-NN.

FINDINGS

ISSUE NO.1

10. In order to claim regularization under the Paradip Port Trust the 2nd Party-Union has to prove the employment of the disputant workmen by the Paradip Port Trust. Therefore the burden lies heavily upon the 2nd Party-Union to prove this fact to succeed in their claim. There is no dispute that the canteen under the name of Cargo Handling Co-operative Canteen was opened in the

year 1983 within the prohibited Dock Area by a resolution passed in Traffic Co-ordination meeting held on 4-7-1983. Ext.-1, filed on behalf of the 2nd Party-Union is the extract of minutes of the Traffic Co-ordination meeting held on 4-7-1983 which was circulated vide letter No. AD/DCM 54/83, dated 11-7-1983. In this meeting three resolutions with regard to the establishment of Labour canteen were passed. first is that electricity, water and building will be provided for the labour canteen by the Port Trust, second is that the canteen is to run on the lines of co-operative and the third is that the Managing Committee of the canteen should be headed by one of the Deputy Traffic Managers or Traffic Officer (L), the other members may consist of employees working in the Dock area including Cargo Handling workers. Ext.-2 is relates to the issue of commodity pass in favour of the Dock Canteen by Commandant, CISF with the signature of the Additional Traffic Manager. Ext.-3 to 5 are the office orders issued with regard to free supply of electricity. water and providing accommodation and construction of rest room by the officers of the Port Trust. Like-wise Ext.-10 to 16 are photocopies of certain letters and minutes of Canteen committee meetings pertaining to various matters related to the management and running of the canteen. These letters/minutes were issued under the signature of the officers of the Port Trust, but they are of little help to prove the case of the 2nd Party-Union that the said canteen was managed by the Paradip Port Trust or its officers under the control and supervision of the Paradip Port Trust. The attendance register Ext.-17 is in prescribed form printed with the name of Paradip Port Trust and had been maintained from February, 1986 to June, 1988, but this does not make in itself the employees of the canteen, the employees of the Paradip Port Trust.

11. Besides the documentary evidence filed by the 2nd Party- Union the oral evidence of its witnesses W. W.-1, Sri Nilamani Behera and W.W.-2 Sri Akshya Kumar Pattnaik also does not prove that the dock canteen was run and managed by the Paradip Port Trust ever since its inception. W.W.-1 Sri Nilamani Behera has been working in the canteen, as per his deposition, since 15th August, 1993. He has stated that he was engaged by the Traffic Manager in the said canteen along with 18 other persons presently working in the canteen. The applications were invited through a notice pasted on the notice board of the office of the Traffic Manager. No written appointment letter was issued to them by the Management. He has stated that all the employees had faced interview, but no intimation to attend the interview was received by them from the Management. His name was not registered in the Employment Exchange. He has further stated that "Paradip Port Trust has not accepted us as their employees". All the employees received their salary from Shri Pitambar Behera after signing in the payment register and used to submit leave application to the Traffic Manager through the canteen in-charge Shri Behera. W. W.-2, Shri Akshya Kumar Pattnaik has only proved Ext.-10 to 17 and has stated nothing significant/relevant to the present dispute.

12. On the contrary Shri Saroja Kumar Mishra, Witness No.1 of the 1st Party-Management No. 1 has stated in his evidence that he had first worked as Addl. Traffic Manager and then Traffic Manager in the Traffic Department of the Paradip Port Trust. Right from the beginning the canteen was being operated on co-operative basis. Neither the authority of the Port nor the Traffic Manager exercised their administrative control regarding running of the canteen, appointment of staff and day to day affairs of the canteen. The Cargo Handling Co-operative Canteen has been registered under the Co-operative Societies Act. There was no approval of the Port authority for functioning of the co-operative society from the year 1983 to 1995. He was only a member of the co-operative canteen. There is a committee to look-after the management of the canteen. For some period the Traffic Manager was the President of the committee. He has denied the fact that the canteen in question functions under the direct control and supervision of the Traffic Department of the Paradip Port Trust. He has proved the extract of the Bank account of the canteen marked as Ext-A and also annual account and audit report of the Paradip Port Trust Ext.-B, B/1 and B/2. He has also proved the copy of the certificate issued by the Assistant Registrar, Co-operative Societies, Jagatsinghpur regarding registration of the Cargo Handling Cooperative Canteen marked as Ext. -C. This registration certificate was issued on 1-3-2001. Witness No. 2 of the 1st Party-Management No. 1 Shri Suvendra Kumar Sahoo was the Deputy Financial Advisor. He has deposed that the sale proceeds of the said canteen is not deposited in the Cash Section of the Paradip Port Trust office. The canteen is not functioning under the administrative control of the Paradip Port Trust and its income and expenditure are not reflected in the annual account of Paradip Port Trust.

13. The 1st party-Management No.2 has examined Shri Pitamber Behera as its witness No.1, who had been working as Secretary of the canteen since 2001. He has stated in his evidence that prior to registration of the Society a committee was formed and through it, members were selected. The canteen committee recruits the paid employees of the canteen, who are being paid their salary from out of the earnings of the canteen. The Attendance register and Payment register of these paid employees are also being maintained by the Committee. These employees are being granted leave by the Secretary of the Society. He has also proved the Attendance register, Payment register, Gift register, temporary gate pass, membership form of share holder minutes of meeting etc. pertaining to the canteen. He has also proved the Savings Bank account pass book No. 106, Ext.-JJ and Cash Book of the canteen from 5-8-1983 to 2-3-1986, Ext.-KK. All these documents

go to show that the canteen is functioning independently under the supervision and control of the Managing Committee with its own financial resources. He has denied the fact that the workmen of the canteen are the employees of the Paradip Port Trust. He has also proved the Minutes of the meeting dated 1-8-1983 marked as Ext.-LL, Minutes of the committee regarding appointment of various staff of the canteen marked as Ext. -MM and bye-laws of the Co-operative Canteen marked as Ext.-NN. These documents show that the staff of the canteen was selected by the Canteen Committee and not by the authority of the Paradip Port Trust.

14. Taking all this evidences led by the parties, into account it cannot reasonably be concluded that the said canteen is the part of the Paradip Port Trust or running under the control and supervision of the Paradip Port Trust. The canteen was established as a welfare measure only for providing food stuffs, tea etc. to the Dock workers and other workers engaged in the Port and in other related activities. The canteen was managed on co-operative basis. Earlier it was run and managed by Co-operative Canteen Committee and thereafter by Managing Committee constituted of share holders/Dock workers.

15. The 1st Party-Management has relied upon the two Judgements of the Hon'ble Supreme Court given in the case (1) "Secretary, State of Karnataka and others - Versus- Uma Devi and others" (2006) 4 SCC 1 and (2) "Haldia Refinery Canteen Employees Union and others - Versus- Indian Oil Corporation Limited and others" (2005 5 SCC 51). In the first case constitutionality of recruitment of temporary, contractual, casual, daily wage or adhoc employees and their right of absorption, regularization or permanent continuance has been an issue and therefore this case is of little use in the present context. However the Hon'ble Supreme Court has held that merely because an employee had continued under cover-of an order of the court, under "litigious employment" or had been continued beyond the term of his appointment by the State or its instrumentalities, he would not be entitled to any right to be absorbed or made permanent in service, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules.

16. Here it is relevant to mention that the Paradip Port Trust is a government organization and it has its own rules of recruitment. If it is assumed that the staff of the canteen was recruited by the Paradip Port Trust or its officers under its authority then the recruitment rules should have been followed and the disputants should have requisite qualifications regarding age, educational qualification, proficiency or experience in job, physical suitability etc. which conditions have not been fulfilled in the present case. But on the reverse, if it is assumed that the disputants are not recruited by the Paradip Port Trust or its officers under its authority long continuance in service cannot entitle them to be absorbed or regularized in service of the Paradip Port Trust.

17. In the case of "Haldia Refinary Canteen Employees Union and others -Versus -Indian Oil Corporation Limited and others" [(2005)5 SCC 51] the Hon'ble Supreme Court in almost similar set up of facts has held that "workmen working in the canteen become the workers of the establishment for the purposes of the Factories Act only and not for any other purpose. They do not become the employees of the management for any other purpose entitling them to absorption into the service of the principal employer:'

18. In the above noted case the canteen was managed by the contractor and the Management was exercising effective control over the contractor of the canteen on certain matters in regard to running of the canteen, including selection of workmen of the canteen. such control was being exercised only to ensure that the canteen was run in an efficient manner and to provide wholesome and healthy food to workmen of the establishment and not for any other purpose. This does not mean that the employees working in the canteen have become the employees of the Management. The Management has nothing to do with either the appointment or taking disciplinary action or dismissal or removal from service of the workmen working in the canteen.

The 2nd Party-Union has relied upon following rulings.

(i) "Parimal Chandra Raha & Others -versus-Life Insurance Corporation of India & others" (1995 LLJ SC 339).

(ii) "M.M.R. Khan etc. -Versus Union of India and others etc." [1995LLJ (III) C 166].

(iii) "Indian Petrochemicals Corporation Limited and another - Versus- Shramik Sena & others" (AIR 1999 SC 2577).

(iv) "Mishra Dhatu Nigam Limited & M Venkataiah & Others" [2003 LLJ-(III) SC - 847].

(v) "Paradip Port Trust -Versus- General Secretary, Utkal Port & Dock Workers' Union Paradip Port and others" [2008-(1)-LLJ-452 (Orissa)].

(vi) "Indian Over-seas Bank -Versus- IOB Staff Canteen Workers Union and Another" [2001-(I)-LLJ-SC-1618].

19. In the first case, the Hon'ble Supreme Court took the view that the canteen has become a part of the establishment of the Life Insurance Corporation. The Canteen Committees, the Cooperative Society of the employees and the contractors engaged from time to time are, in reality, the agencies of the Corporation and are, only

a veil between the Corporation and the canteen workers in fact are the employees of the Corporation.

20. In the second case, the Hon'ble Supreme Court while distinguishing between three types of canteens - Statutory Canteens - Non-Statutory, but recognized canteens - Non-statutory non-recognized canteens has held that workers engaged in the Statutory Canteens as well as those engaged in Non-statutory recognized canteens in the railway establishments are railway employees and they are entitled to be treated as such. But here in the matter in dispute it is not clear as to what type of canteen is the canteen running in the establishment of the Paradip Port Trust known as Cargo Handling Co-operative canteen and whether the notification issued by the Government of India dated 11-12-1989 referred to in the above judgement is applicable in the present case or not? The 2nd Party-Union has not relied on this notification nor filed its copy to make it clear as to whether this notification applies to all Ministries and departments of the Government of India or to some particular establishments or departments.

21. In the third case, the Hon'ble Supreme Court has treated the workmen of the canteen of the establishment of Indian Petro Chemicals Corporation Limited as permanent employees of the Management as the canteen though being managed by the contractor has been in existence from inception of the establishment and the workmen continued to work in spite of there being change in contractor pursuant to direction issued by the Industrial Court and the 1st Management failed to challenge the directions of Industrial Tribunal which became final and the wages of the workmen were reimbursed by the Corporation. The control and supervision of the canteen was exercised by the Corporation through its authorized officers and the contractor being only an agent or manager of the corporation working under its supervision, control and direction.

22. In the 4th case, the employees engaged through contractor in canteens of principal employer which were maintained in discharge of employer's statutory obligation are held to be employees of the principal /employer by the Hon'ble Supreme Court.

23. In the 5th case, because of perennial nature of work for long period of time regularization of service of workmen was held not erroneous by the Hon'ble High Court of Orissa. But this case does not relate to canteen workers instead to workers engaged for loading and unloading materials of the suppliers and transporters. There are other distinguishing facts in the above case which are different from the present case.

24. In the sixth case, the Management of Indian Overseas Bank was running canteens in Head Office to cater to needs of staff employees of the Bank through contractor. Later the Bank floated Co-operative Society in order to facilitate the running of such canteen providing infrastructural facilities such as premises, furniture, utensils, electricity, cost of gas and cylinder and even subsidy to the staff of the canteen and periodical funds by the Central Office to carry on day to day affairs of the Canteen. In view of the above facts the Hon'ble Supreme Court set aside the order of the single judge and upheld the order of the Industrial Tribunal upholding the employees of the canteen as workmen of the Bank for giving the same status and same facilities as are available to the class-IV employees of the Bank.

25. All these cases cited on behalf of the 2nd Party-Union are distinguishable on facts from the present case and on the basis of the facts of the present case the disputant workmen cannot be held to be the regular employees of the 1st Party-Management as there is no evidence that they were recruited either by the Paradip Port Trust or their officers acting under its authority and they were getting any financial aid or subsidy or wages from the Paradip Port Trust. No direct supervision or control is being exercised by the authorities of the Paradip Port Trust. Inspections by Labour Officer or Medical Officer of the Port Trust are only made to safeguard the sanitary and hygienic conditions in the canteen and the statutory requirements with regard to an industrial establishment met with. It has come in evidence that the canteen workers are being paid with the earnings of the canteen. A separate account in the name of the canteen is being operated by the officials of the canteen. Therefore the Paradip Port Trust has nothing to do with the affairs of the said canteen and the disputant workmen cannot be treated as regular employees of the Paradip Port Trust. Under these circumstances the claim of the Paradip Port and Dock Mazdoor Union for treating the workmen of the said canteen as regular employees of Paradip Port Trust is not justified. Issue No.1 is decided against the 2nd Party-Union.

ISSUE NO. 2

26. From the evidence on record and conclusions arrived at above it can safely be concluded that the disputant workmen are the employees of the Cargo Handling Cooperative Canteen which is being run by a duly registered co-operative Society. Therefore relationship of master and servant is established between the Co-operative Society and the staff of Cargo Handling Cooperative Canteen. This issue is decided accordingly.

ISSUE NO. 3

27. In view of the findings recorded under Issue No. 1 and 2 the 2nd Party-Union is not entitled to relief claimed.

28. Reference is answered accordingly.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 30 जनवरी, 2013

का.आ. 474.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर. सी. एण्ड एफ. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, मुम्बई के पंचाट (आईडी संख्या 38/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-42012/5/2005-आई आर (सी-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th January, 2013

S.O. 474.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2006) of the Central Government Industrial Tribunal No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of R.C. & F.L. and their workman, which was received by the Central Government on 30-1-2013.

[No. L-42012/5/2005-IR (C-II)]
B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

JUSTICE G. S. SARRAF, Presiding Officer

Present :

REFERENC No. CGIT 1/38 of 2006

Parties : Employers in relation to the management of Rashtriya Chemicals and Fertilizers

And

Their workmen

Appearances :

For the Management	:	Mr. Alva, Adv.
For the Union	:	Mr. R. D. Bhatt, Adv.
For the 50 workmen	:	Mr. J.P. Sawant, Adv.
State	:	Maharashtra

Mumbai, dated the 8th day of January, 2013.

AWARD

1. In exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

(1) Whether the contract between the contractor and Rashtriya Chemicals and Fertilizers Limited, Mumbai is sham and bogus and is a camouflage to deprive the workmen whose names are enlisted at Exhibit "A" from the benefits available to permanent workers of the Rashtriya Chemical Fertilizers Limited ?

(2) Whether the workmen whose names are enlisted at Exhibit A should be declared as permanent workers and wages and consequential benefits to be paid concerned workers ?

2. An application was filed on 21-11-2012 by 50 workmen named therein with a prayer that their names be deleted from the reference as they were not interested in pursuing the claim against the first party.

3. Another application has been filed today by the President, Mumbai Shramik Sangh stating therein that the second party is not interested in pursuing its claim and contentions against the first party and that it does not press its statement of claim and, therefore, an appropriate award be passed in this mattter.

4. It is thus clear from the above two applications that the second party is not interested in pursuing and prosecuting this reference.

5. The reference is, therefore, disposed of as not prosecuted by the second party.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 30 जनवरी, 2013

का.आ. 475.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार खादी विलेज इण्डस्ट्रीस कमीशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, मुम्बई के पंचाट (आईडी संख्या 11/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-42012/70/2005-आई आर (सीएम-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th January, 2013

S.O. 475.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Khadi Village Industries Commission, and their workman, received by the Central Government on 30-1-2013.

[No. L-42012/70/2005-IR (CM-II)]
B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

Present :

JUSTICE G. S. SARRAF, Presiding Officer

REFERENC No. CGIT 1/11 of 2006

Parties: Employers in relation to the management of Khadi Village Industries Commission

And

Their workmen (Ganesh Kotian)

Appearances:

For the Management : Mr. S. K. Jaiswal, Management Representative

For the Workman : Mr. J. P. Sawant, Adv. Withdrew his power

State : Maharashtra

Mumbai, dated the 11th day of January, 2013.

AWARD

1. In exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal:

> Whether the action of the management of Khadi & Village Industries Commission in terminating the services of Sh.Ganesh Kotian, Wash Boy is legal and justified ? If not, to what relief the workman is entitled to?

According to the statement of claim filed by the workman Ganesh he was employed by the management of Khadi and Village Industries Commission in its departmental canteen in the capacity of wash boy w.e.f. 1-6-1996. He was attending to the duties attached to the post of wash boy along with other regular employees. He was paid wages @ Rs.50 per working day. He was given assurance from time to time that his case for permanency was under consideration. However, the management terminated his services w.e.f. 1-6-2004 in blatant violation of principles of natural justice. The action of the management in terminating his services is illegal and unjustified. He has, therefore, prayed that he be reinstated with full back wages and consequential benefits.

3.The management has filed written statement wherein it has stated that the workman was engaged purely on daily wage basis and he was not in continuous service. The workman had no legal right to continue in service and, therefore, his services were discontinued.

4. The workman has filed rejoinder wherein he has reiterated his stand.

5. The workman did not produce any evidence and his evidence was closed as per order sheet dt. 7-8-2012.

6. Shri J. P. Sawant, learned counsel for the workman has filed an application today to allow him to withdraw his appearance. The prayer is granted.

The workman is not present and, therefore, cross-examination of the witness of the management is closed.

8. Final arguments heard.

9. As per the statement of claim the workman was appointed on daily wage basis and as such he had no legal right to continue in service. The workman has not led any evidence whatsoever and there is nothing on the record to show that the termination of the workman was illegal or unjustified

10. It is thus clear that the action of the management in terminating the services of the workman Ganesh Kotian is legal and justified and the workman is not entitled to any relief.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 30 जनवरी, 2013

का.आ. 476.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 1, नई दिल्ली के पंचाट (आईडी संख्या 194/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-22012/334/2002-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th January, 2013

S.O. 476.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 194/2011) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India and their workman, received by the Central Government on 30-1-2013.

[No. L-22012/334/2002-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE DR R. K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DELHI

I. D. No. 194/2011

The Senior Vice President,
Bhartiya General Mazdoor Congress,
Plot No.1, Aram Bagh
(Near Udasin Mandir),
Pahar Ganj, New Delhi.

....Workman

Versus

The Regional Manager,
Food Corporation of India,
Barakhamba Lane,
New Delhi - 110001.

....Management

AWARD

1. Contract labours, engaged by M/s. Great Ex-servicemen Security and Transport Services (P) Ltd. (hereinafter referred to as the contractor) to carry out contractual obligation with Food Corporation of India (in short the Corporation), raised a demand on Corporation for absorption of their services. The Corporation did not concede to their demand. Writ petition being CWP No.7228/99 was filed by them before the High Court of Delhi for regularisation of their services with the Corporation. Writ petition was dismissed by the High Court, vide its order dated 27-9-2001. Thereafter the contract labours approached the General Mazdoor Congress, (hereinafter referred to as the union) for redressal of their grievance. The union raised a dispute before the Conciliation Officer seeking regularization of services of the contract labours with the Corporation. Since the Corporation contested the claim, hence conciliation proceedings ended into a failure. On consideration of the failure report, submitted by the Conciliation Officer, appropriate Government referred the dispute to this Tribunal for adjudication, vide order No.L-22012/334/2002-IR(CM-II), New Delhi dated 26-9-2003 with following terms:

> "Whether the demand of the contract labours engaged by M/s. Great Ex-servicemen Security and Transport Services (P) Ltd., the contractor, in relation to the absorption/regularisation of their services in the Food Corporation of India, New Delhi, is legal and justified? If yes, to what relief these workmen are entitled to and from which date?"

2. Claim statement was filed by and on behalf of 21 contract labours, namely, Shri Rakesh Awasthi S/o Shri Ram Lal, Shri Siya Ram S/o Shri Patha Prasad, Shri Rakesh Kumar S/o Shri Mahavir Singh ,Shri Ashok Kumar S/o Shri Sampat Singh, Shri Sonu Singh S/o Shri Rattan Singh, Shri Lakhan Dhyani S/o Shri R Dhyani, Shri Hawa Singh S/o Shri Gulab Singh, Shri Ram Kishan S/o Shri Ram Sarup, Shri Sanjay Kumar S/o Shri Hoshyar Singh, Shri Kuber Singh Bist S/o Shri Dalip Singh Bisht, Shri Dalbir Singh S/o Shri Ratan Singh, Shri Sunder Singh S/o Shri Azad Singh, Shri Manohar Lal S/o Shri Hukum Lal, Shri Asha Ram S/o Shri Meharman, Shri Ram Kishan S/o Shri Shardanand, Shri Pradeep Kumar S/o Shri Ramesh Singh, Shri Satnarayan Chaudhri S/o Shri S.L. Chaudhari, Shri Prem Singh Bisht S/o Shri Ganga Singh Bisht, Shri Mahavir Singh Dahiya S/o Shri Jaisi Ram Dahiya, Shri Ajay Kumar Chikara S/o Shri Satya Narayan and Shri Kundan Singh S/o Shri Keshava Nand, pleading therein that they were engaged by the Corporation as security guards through a contractor. The contractor, to whom work of providing security services was awarded by the Corporation, acted as an agent of the Corporation. Claimants have been working with the Corporation from last many years. Their selection was done by the Corporation and not by the Contractor. Contract agreement entered into between the Corporation and the contractor is ruse/camouflage. In case veil would be lifted, it would come over the record that there existed direct relationship of employer and employee between the Corporation and the claimants. Their service conditions were decided by the Corporation. Officers of the Corporation used to decide quantum of their wages and other dues. Their attendance was marked and verified by officers of the Corporation. Disciplinary action, like suspension etc, was taken by the Corporation. Transfers and place of posting of the claimants were always decided by the Corporation. They always represented to the Corporation for redressal of their grievances. As and when minimum wages were increased by the appropriate Government, the Corporation used to increase their wages. Though contractors changed, but they continued to work with the Corporation. Earlier M/s Urmisha Succour Consultancy and Associates were awarded job of providing security guards, which was subsequently awarded to the contractor.

3. They plead that the contractor(s) were not having licence to carry out work of providing security services to the Corporation. Contractor and the Corporation never acted on principle to principle basis and the contractor always acted on commands of the Corporation. Economic control on the claimants was exercised by the Corporation. Provisions such as allowance for their uniform, wages, leaves, assigning of duties and continuation in service etc., were decided by the Corporation and not by the contractor. The contractor was a mere name lender. The claimants project that it is the Corporation who is their real employer with whom they were working since last so many years. They claim that their services may be regularised in the establishment of the Corporation with consequential benefits, besides direction to the Corporation to pay equal wages to them, at par with its regular employees.

4. Claim was demurred by the Corporation pleading that there existed no relationship of employer and employee between claimants and the Corporation. Claimants are employees of the contractor. Contract entered into between the Corporation and the contractor is a scrupulous document. Provisions of Contract Labour (Regulations and Abolition) Act, 1970 (in short the Contract Labour Act) were followed by the contractor as well as the Corporation. The contractor used to pay their wages. Service conditions of the claimants were governed by the contractor. Claimants were working under control and supervision of the contractor. Their services were dployed at different points by the security supervisor of the contractor. As and when

minimum wages were notified by the appropriate Government, the contractor used to increase their weges. Their Attendance was maintained by the contractor. Points of their duties changed as per requirement. There was a supervisor engaged by the contractor, who used to supervise duties of the claimants. However, surprise checks used to be conducted by the security officers of the Corporation, to see that no duty point remain unattended.

5. The Corporation claims that when contract of M/s. Urmisha Succour.,Consultancy and Associates came to an end, work was awarded to the contractor. It was prerogative of the contractor to remove old workers or to allow them to continue with the job, if they fulfil his requirement. Contactor was having his independent establishment and used to take independent decision in respect of contract labour employed by him. It does not lie in the mouth of the claimants to agitate that they worked directly under control and supervision of the Corporation. The Corporation claims that the contract entered into between it and the contractor is genuine. Claim put forward by the contract labours is devoid of merits, hence it may be dismissed, pleads the Corporation.

6 In rejoinder, claimants reiterate facts pleaded in the claim statement.

7. The case was transferred to the Central Government Industrial Tribunal No.II, New Delhi, vide order No.Z-22019/6/2007-IR(C-II), New Delhi dated 11-2-2008 for adjudication by the appropriate Government. It was retransferred to this Tribunal for adjudication, vide order No.Z-22019/6/2007-IR(CM-II), New Delhi dated 30-3-2011.

8. After transfer of the case to this Tribunal, Shri S.L. Kathpal, authorised representative of the claimants, appeared only once on 19-7-2011. Thereafter neither the claimants nor their authorized represented opted to put in their appearance. The case was adjourned for 23-8-11, 19-9-11, 27-10-11, 14-12-11, 16-1-12 and 14-2-12, on which dates, none appeared on behalf of the claimants. In view of these facts, the Tribunal was constrained to proceed with matter under rule 22 of the Industrial Disputes (Central) Rules 1957.

9. Corporation examined Shri Rakesh Bhandula to defend the claim. Since none came forward on behalf of the claimants, hence opportunity could not be accorded to them to purify facts unfolded by Shri Bhandula by an ordeal of cross examination.

10. Arguments were heard at the bar. Shri Deepak Dhawan, authorized representative, advanced arguments on behalf of the Corporation. None came forward to present facts on behalf of the claimants. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:-

11. Shri Rakesh Bhandula deposed that the claimants were employees of the contractor. Contractor used to pay their wages. He used to make payment towards subscriptions of provident fund and ESI in respect of the claimants. Ex.MW1/2, Ex.MW1/4 and Ex.MW1/5 are copies of bill presented by the contractor. Ex.MW1/3 is copy of payment voucher and Ex.MW1/7 is copy of salary register, maintained by the contractor. Ex.MW1/8 is copy of provident fund and ESI register maintained by the contractor Ex.MW1/9 and Ex.MW1/10 are copies of challans for deposit of subscriptions towards provident fund and ESI.

12. When Ex.MW1/4 is perused, it came to light that the contractor has claimed payment towards security supervisors and security guards deployed by him with the Corporation. Ex.MW1/3 contains order passed by the Corporation for payment in respect of the above bills. Ex.MW1/6 to Ex.MW1/11 are the documents which go to establish that it was the contractor who made payment to the claimants and deposited their provident fund and ESI contributions with the authorities. As unfolded by Shri Bhandulla, it was the contractor who had engaged the claimants in his services. The contractor made payment towards wages of the claimants. No evidence has been put forth on behalf of the claimants that the Corporation ever made payment of wages to them. Facts unfolded by Shri Bhandulla coupled with the contents of the documents referred above, bring it over the record that relationship of employer and employee existed between the claimants and the contractor. Contractor made payment of wages to the claimants in accordance with minimum wages notified by the appropriate Government from time to time. Relationship of employer and employee never existed between the claimants and the Corporation.

13. Whether the claimants, who were employees of the Contractor, can maintain a dispute against the Corporation? For an answer to this proposition, the Tribunal has to take note of the law contained in Section 10 of the Contract Labour Act which makes provision for prohibition of employment of contract labour. For sake of convenience provisions of Section 10 of the Contract Labour Act are reproduced thus:

"10. Prohibition of employment of contract labour:-

(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as -

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation — If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final."

14. As emerge out of the provisions of sub-section (1) of Section 10 of the Contract Labour Act, the appropriate Government may, by notification in the official gazette, prohibit employment of contract labour in any process, operation or other work in any establishment. When employment of contract labour is prohibited, by issuance of a notification in official gazette by the appropriate Government, what would be the status of the contract labour employed in the establishment? Such a question arose before the Apex Court in Steel Authority of India Ltd. (supra). The Apex Court ruled therein that there cannot be automatic absorption of contract labour by principal employer on issuance of notification by the appropriate Government on abolition of contract labour system, under sub-section (1) of Section 10 of the Contract Labour Act. It would be expedient to reproduce the law laid by the Apex Court, which is extracted thus:

".... they fall in three classes : (1) where contract labour is engaged in or in connection with the work of an establishment and employment of contract labour is prohibited either because the industrial adjudicator/court ordered abolition of contract labour or because the appropriate Government issued notification under Section 10(1) of the CLRA Act, no automatic absorption of contract labour working in the establishment was ordered. (2) where contract was found to be a sham and nominal, rather a camouflage, in which case the contract labour working in the establishment of the principal employer were held, in fact and in reality, the employees of the principal employer himself. Indeed such cases do not relate to the abolition of contract labour but present instances wherein the court pierce the veil and declared the correct position as a fact at the stage after employment of contract labour stood prohibited. (3) where in discharge of a statutory obligation of maintaining a canteen in an establishment the principal employer availed the services of the contractor, the courts have held that the contract labour would indeed be employees of the principal employer".

15. The Court ruled that neither Section 10 of the Contract Labour Act nor any other provision in that Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuance of a notification by the appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order for absorption of the contract labour working in the establishment concerned. It was further ruled therein that in Saraspur Mills case [1974 (3) SCC 66], the workman engaged for working in the canteen run by the Cooperative Society for the appellant were the employees of the appellant mills. In Basti Sugar Mills (AIR 1964 S.C. 355) a canteen was run in the factory by the Cooperative Society and as such the workers working in the canteen were held to be employees of the establishment. The Apex Court ruled that these cases fall in class (3) mentioned above. Judgment in Hussainbhai [1978 Lab. I.C. 1264] was considered by the Apex Court in the said precedent and it was ruled therein that the said precedent falls in class (2), referred above. The Apex Court concluded that on issuance of prohibitive notification under Section 10 of the Contract Labour Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the Industrial Adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislation so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned, subject to the conditions as may be specified by it for that purpose.

16. As announced by the Apex Court, on issuance of a prohibitive notification, prohibiting employment of contract labour or otherwise in any industrial dispute brought before it by the contract labour in regard to conditions of his service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of the contract labour for the work of the establishment under a genuine contract or it is a mere ruse/camouflage to evade compliance of beneficial legislation so as to deprive the workers of the benefits therein. Thus it was ruled that a contract labour can raise a dispute before

the industrial adjudicator in regard to his conditions of service and in case the contract is found to be not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of the principal employer. Air Over Standard Vacuum Refining Co. of India Ltd. [1960 (II) LLJ 233], which was referred with approval in Steel Authority of India.

17. In Shivnandan Sharma [1955 (1) LLJ 688], the Punjab National Bank entrusted its Cash Department under a contract to the Treasures who appointed cashiers, including the appellant Head Cashier. The question before the Apex Court was: was the appellant an employee of the Bank ? On construction of the agreement entered into the Bank and the Treasure, the Court laid down:

> "If a master employs a servant and authorizes him to employ a number of persons to do a particular job and to guarantee their fidelity and efficiency for a cash consideration, the employees thus appointed by the servant would be equally with the employer, servant of the master."

In the above precedent the Apex Court for the first time laid down the crucial test of supervision and control for determining the relationship of employer and employee.

18. In Hussainbhai (supra) the petitioner, who was manufacturing ropes, entrusted the work to a contractor who engaged his own workers. When, after some time, the workers were not engaged, they raised an industrial dispute that they, were denied employment by the petitioner. On reference of that dispute, the labour court passed an award against the petitioner. When matter reached the Apex Court, on examination of various factors and applying the effective control test, it was held that though there was no direct relationship between the petitioner and the workers yet on lifting the veil and looking at the conspectus of factors governing employment, the naked truth, though drapped in different perfect paper arrangement, was that the real employer was the petitioner, not the immediate contractor. The Apex Court stated law in following words :

> "Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistance, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractor with whom alone the workers have immediate or direct relationship ex-contractor is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor***. If the livelihood of the workmen substantially depends on labour rendered to produce goods and services for the benefit and satisfaction of an enterprise, the absence of direct relationship or the presence of dubious intermediaries or the make-believe trappings of detachment from the management cannot snap the real-life bond. The story may vary but the inference defies ingenuity. The liability cannot be shaken off. Of course, if there is total dissociation in fact between the disowning management and the aggrieved workmen, the employment is, in substance and real-life terms, by another. The management's adventitious connections cannot ripen into real employment."

As noted above, this precedent does not present an illustration of abolition of contract labour but an instance where the Court pierced the veil and declared the correct position to the effect that the contract labours were employees of the principal employer and not of the contractor.

19. In Steel Authority of India (supra) it has been ruled that the term "contract labour" is a species of workman. A workman may be hired: (1) in an establishment by the principal employer or by his agent with or without the knowledge of the principal employer, or (2) in connection with the work of an establishment by the principal employer through a contractor or by a contractor with or without the knowledge of principal employer. Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman. But when a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question might arise whether the contractor is a mere camouflage as in Hussainbhai's case (supra) and in Indian Petrochemicals Corporation case [1999 (6) S.C.C. 439] etc.; if the answer is in affirmative, the workman will be in fact an employee of the principal employer, but if the answer is in the negative, the workman will be a contract labour.

In view of the legal proposition, referred above, it is concluded that the claimants can maintain this dispute against the Corporation since they agitate that the contract agreement between the Corporation and the contractor is sham and nominal.

20. Whether any directions for deeming the contract labour as having become the employees of the principal employer can be issued, when the contractor or the principal employer had violated the provisions of the Contract Labour Act ? To find an answer, provisions of that Act are to be examined. The Contract Labour Act regulates

conditions of workers in contract labour system and provides for its abolition by the appropriate Government as provided by Section 10 of that Act. In regard to regulatory measures Section 7 requires the principal employer to get itself registered, while Section 12 obliges every contractor to obtain a licence, under the provisions of that Act. Section 9 places an embargo on the principal employer of an establishment from employing contactor labour in the establishment, when either it is not registered or its registration has been revoked. Section 12 of the Contract Labour Act imposes a liability on a contractor not to undertake or execute any work through contract labour except under and in accordance with a licence. Sections 23, 24 and 25 make contraventions of the provisions of that Act or Rules made thereunder penal. In Dena Nath (1992 Lab. I.C. 75) the Apex Court considered the question, whether non-compliance of the provisions of Sections 7 and 12 by the principal employer and the contractor respectively would make the contract labour employed by the principal employer as the employee of the latter. It was ruled that only consequence of non-compliance either by the principal employer of Section 7 or by the contractor in complying the provisions of Section 12 is that they are liable for prosecution under the said Act. But the employees employed through the contractor cannot be deemed to be the employees of the principal employer.

21. In the Steel Authority of India (supra) the Apex Court laid emphasis ". ... the consequence of violation of Section 7 and 12 of the CLRA Act is explicitly provided in Section 23 and 25 of the CLRA Act, it is not for the High Courts or this Court to read in some unspecified remedy in Section 10 or substitute for penal consequences specified in Sections 23 and 25 a different sequel, be if absorption of contract labour in the establishment of principal employer or a lesser or harsher punishment. Such an interpretation of the provisions of the statute will be far beyond the principle of ironing out the creases and the scope of interpretative legislation and as such, clearly impermissible". The above authoritative pronouncements make it clear that on violations of the provisions of the Contract Labour Act or Rules made thereunder, the contract labour could not be deemed to have become the employee of the principal employer.

22. Whether this Tribunal has power to order for abolition of contract labour system in the establishment of the management? For an answer, legal dicta is to be considered. Before enactment of the Contract Labour Act, the industrial adjudicator, in appropriate cases, used to issue directions to the establishment concerned to abolish or modify system of contract labour. Reference can be made to precedents in United Salt Works and Industries Ltd. [1962 (I) LLJ. 131], Shibu Metal Works [1966 (I) LLJ. 717], National Iron & Steel Co. [1967 (II) LLJ. 23] and Ghatge and Patil (Transport) Pvt. Ltd. [1968 (I) LLJ. 566]. The National Commission on Labour (1966) in para 29.11 of its report, enumerated those factors, on which abolition of contract labour was ordered, thus:

> "29.11. Judicial awards have discouraged the practice of employment of contract labour, particularly when the work is (i) perennial and must go on from day to day; (ii) incidental and necessary for the work of the factory; (iii) sufficient to employ a considerable number of whole time workmen; and (iv) being done in most concerns through regular workmen. These awards also came out against the system of 'middlemen'."

23. After Contract Labour Act was brought on statute book, the Apex examined jurisdiction of the industrial adjudicator to issue directions to the establishment to abolish contract labour in Vegoils Private Ltd. [1971 (2) S.C.C. 724] and ruled that it would be proper that the question, whether the contract labour in the appellant industry was to be abolished or not, be left to be dealt with by the appropriate Government under the provisions of that Act, if it becomes necessary. The observations made by the Court are extracted thus:

> "The appropriate Government when taking action under Section 10 will have an overall picture of the industries carrying on similar activities and decide whether contact labour is to be abolished in respect of any of the activities of that industry. Therefore, it is reasonable to conclude that the jurisdiction to decide about the abolition of contract labour, or to put it differently, to prohibit the employment of contract labour, is now to be done in accordance with Section 10. Therefore, it is proper that the question whether the contract labour regarding loading and unloading in the industry of the appellant is to be abolished or not, is left to be dealt with by the appropriate Government under the Act, if it becomes necessary. On this ground, we are of the opinion that the direction of the Industrial Tribunal in this regard will have to be set aside.***. The legality of the direction given by the Industrial Tribunal abolishing contract labour in respect of loading and unloading from May 1, 1971, can also be considered from another point of view. The Central Act, as mentioned earlier, had come into force on February 10, 1971.Under Section 10 of the said Act the jurisdiction to decide matters connected with prohibition of contract labour is now vested in the appropriate Government. Therefore, with effect from February 10, 1971, it is only the appropriate Government that can prohibit contract labour by following the procedure and in accordance with the provisions of the Central Act. The Industrial Tribunal, in the circumstances, will have no jurisdiction, through its award dated November 20, 1970, to give a direction in that respect which becomes, enforceable after the date of the coming into force of the Central Act. In any event, such a direction contained in the award cannot be enforceable from a date when abolition of contract labour can only be done by the appropriate Government in accordance with the provisions of the Central Act."

24. In Gujarat Electricity Board [1995 (5) SCC 27] the same view was taken by the Apex Court holdings that the authority to abolish the contract labour vests in the appropriate Government and not in any court including the industrial adjudicator. It would be apposite to reproduce the observation of the court thus:

"53. Our conclusions and answers to the questions raised are, therefore, as follows:

(i) In view of the provisions of Section 10 of the Act, it is only the appropriate Government which has the authority to abolish genuine labour contract in accordance with the provisions of the said Section. No Court including the industrial adjudicator has jurisdiction to do so.

(ii) If the contract is sham or not genuine, the workmen of the so-called contractor can raise an industrial dispute for declaring that they were always the employees of the principal employer and for claiming the appropriate service conditions. When such dispute is raised, it is not a dispute for abolition of the labour contract and hence the provisions of Section 10 of the Act will not bar either the raising or the adjudication of the dispute. When such dispute is raised, the industrial adjudicator has to decide whether the contract is sham or genuine. It is only if the adjudicator comes to the conclusion that the contract is sham, that he will have jurisdiction to adjudicate the dispute. If, however, he comes to the conclusion that the contract is genuine, he may refer the workmen to the appropriate Government for abolition of the contract labour under Section 10 of the Act and keep the dispute pending. However, he can do so if the dispute is espoused by the direct workmen of the principal employer. If the workmen of the principal employer have not espoused the dispute, the adjudicator, after coming to the conclusion that the contract is genuine, has to reject the reference, the dispute being not an industrial dispute within the meaning of Section 2 (k) of the ID Act. He will not be competent to give any relief to the workmen of the erstwhile contractor even if the labour contract is abolished by the appropriate Government under Section 10 of the Act.

(iii) If the labour contract is genuine a composite industrial dispute can still be raised for abolition of the contract labour and their absorption. However, the dispute, will have to be raised invariably by the direct employees of the principal employer. The industrial adjudicator, after receipt of the reference of such dispute will have first to direct the workmen to approach the appropriate Government for abolition of the contract labour under Section 10 of the Act and keep the reference pending. If pursuant to such reference, the contract labour is abolished by the appropriate Government, the industrial adjudicator will have to give opportunity to the parties to place the necessary material before him to decide whether the workmen of the erstwhile contractor should be directed to be absorbed by the principal employer, how many of them and on what terms. If, however, the contract labour is not abolished, the industrial adjudicator has to reject the reference.

(iv) Even after the contract labour system is abolished, the direct employees of the principal employer can raise an industrial dispute for absorption of the ex-contractor's workmen and the adjudicator on the material placed before him can decide as to who and how many of the workmen should be absorbed and on what terms."

25. In Steel Authority of India (supra) the Apex Court had referred the precedents in Vegoils case (supra) and Gujarat Electricity Board (supra) with approval. Thus it emerges that power to abolish contract labour system vests with the appropriate Government, under Section 10 of the Contract Labour Act, and not with any court including the industrial adjudicator. This Tribunal has not been saddled with any responsibility to abolish contract labour in an establishment, on parameters enacted in sub-section (2) of Section 10 of the Contract Labour Act.

26. Now I would turn to facts of the present controversy. It is not a case where an employee of a contractor, employed in a statutory canteen, has invoked the jurisdiction of this Tribunal. This matter, as projected by the claimants, is left to be approached on the proposition as to whether contract agreement entered into between the Corporation and the contractor was sham and nominal. In order to ascertain genuineness of the contract agreement, entered into between the Corporation and the contractor, its contents are to be scanned. Shri Bhandula proved that documents as Ex.MW1/1, in order to project that work relating to providing security services was awarded to the contractor by the Corporation. When this document is scanned, it came to light that it was agreed upon between the contractor and the Corporation that persons employed by the contractor were to be engaged by the latter as its own servants. Clause 8.2 of Ex.MW1/1 highlights that proposition. It was detailed therein that the contractor shall carryout his responsibilities under the Factories Act, the Workmen Compensation Act, Employees Provident Fund Act and any other enactment in respect of its employees. Conditions of the contract are enumerated in sheet annexed with Ex.MW1/1, wherein it has been provided that depolyment of security guards as per shift and points will be decided in consultation with Manager (Security) as per the requirement from time to time. The contractor was saddled with responsibility to pay wages, provident fund, bonus, medical leaves etc. to the claimants. It was made clear therein that no liability in respect of above benefits would be fastened by the contractor to the Corporation. In case services rendered by the employees of the contractor are not to the satisfaction of the Corporation or any of the terms of the contract are violated, right was reserved by

the Corporation to terminate the contract without any notice. Liability was imposed on the contractor to ensure that no unlawful act is resorted to by his employees while on duty. The contactor was having sole responsibility for settling/resolving any dispute of his employees, during currency of the contract. Necessary equipment like Torch, Lathi etc. required for the security guards, were to be supplied by the contractor.

27. Out of contents of Ex.MW1/1, it emerged over the record that the contractor was not only the pay master, but exercised economic, financial, administrative, disciplinary and supervisory control on the claimants. As pointed out above, there were supervisors, who used to supervise work of the claimants. Those supervisors were engaged by the contractor. Consequently, these factors make me to conclude that the contract agreement Ex. MW1/1 is a genuine document. No efforts were made by the Corporation and the contactor to evade provisions of beneficial legislations One cannot comment that the Corporation prepared Ex.MW1/1 as a perfect paper arrangement, in order to deprive the claimants from their rights and privileges, Genuineness of the contract agreement cannot be doubted. No evidence worth name emerged to establish that the contract agreement was sham. Consequently, it is concluded that this Tribunal cannot grand indulgence to the claimants and declare them to be employees of the Corporation.

28. Out of facts detailed above it stood established that the claimant has not been able to pin point that the contract entered into between the Corporation and the contractor was sham and bogus. There is a complete vacuum of evidence to show that the contract was entered into with a view to evade labour legislations. No eyebrow could be raised about legality and genuineness of the contract, entered into between the Corporation and the contractor. Hence, it cannot be concluded that the contract was ruse. No circumstances are there to announce that the claimants are deemed to be employees of the Corporation. Their claim is liable to be dismissed. Accordingly, the claim is discarded. An award is passed in favour of the Corporation and against the claimants. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 30 जनवरी, 2013

का.आ. 477.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (आईडी संख्या 5/2012-13) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-22012/54/2011-आई आर (सीएम-II)]

बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th January, 2013

S.O. 477.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2012-13) of the Central Government Industrial Tribunal-Cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Jambad Colliery, Kajora Area, M/s. ECL, and their workmen, received by the Central Government on 30-1-2013.

[No. L-22012/54/2011-IR (CM-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NG/05/2012-13 Date: 11-1-2013

Party No. 1:

The Chairman-cum-Managirig Director,
Western Coalfields Ltd., HQ, Coal Estate,
Civil Lines, Nagpur - 1, Maharashtra.

Versus

Party No. 2:

The Regional Director,
Rashtriya Colliery Mazdoor Sangh,
(INTUC), WCL, B/51, Koyla Vihar,
Civil Lines, Nagpur - 1, Maharashtra.

AWARD

(Dated: 11th January, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and the union, Rashtriya Colliery Mazdoor Sangh (INTUC), for adjudication, as per letter No.L-22012/54/2011-IR (CM-II) dated 17-5-2012, with the following schedule:—

> "Whether the action of the management of the Western Coal Field Limited, Nagpur through its Chairman- cum-Managing Director in not providing facility of check off system and not giving representation in bilateral discussion in existing I.R. system of the WCL to the disputant union i.e. Rashtriya Colliery Mazdoor Sangh (INTUC) is legal and justified? To what relief the disputant union is entitled to?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement. On receipt of the notice, an application was sent by the petitioner (union) by post for time to file statement of claim and the said application was received on 11-7-2012. However, no statement of claim was filed by

the petitioner. Management appeared in the case through their advocate on 26-9-2012. Inspite of several adjournments for filing statement of claim by the petitioner, neither any statement of claim was filed nor the petitioner made its appearance. So, the case was closed and was posted for passing of "no dispute award".

3. As no statement of claim has been filed and the parties have not been appearing, it is found that the parties are not interested to proceed with the case. Hence, it is ordered :—

ORDER

The reference be treated as "no dispute award".

J. P. CHAND, Presiding Officer

नई दिल्ली, 30 जनवरी, 2013

का.आ. 478.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भाखड़ा मेकिनीकल डिविजन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (आईडी संख्या 960/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-23012/2/1995-आई आर (सी-II)]
बी. एम. पटनायक, अनुभाग अधिकारी

New Delhi, the 30th January, 2013

S.O. 478.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 960/2005) of the Central Government Industrial Tribunal -Cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BMD and their workman, which was received by the Central Government on 30-1-2013.

[No. L-23012/2/1995-IR (C-II)]

B. M. PATNAIK, Section Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sri A. K. Rastogi, Presiding Officer

Case No. I. D. 960/2005, Registered on 15-9-2005

The President, Nangal Bhakra Mazdoor Sangh, Nangal Township, Distt. Ropar (Punjab).

...Petitioner

Versus

The Executive Engineer/Chief Engineer, Bhakra Mechanical Division, Nangal Township, Distt. Ropar (Punjab).

....Respondent

Appearances

For the Workman : Sh. R. K. Singh Parmar A.R.

For the Management : Sh. S.K. Goel Law Officer.

AWARD

Passed on 11th January, 2013

Central Government vide Notification No. L-23012/2/95-IR(C-II) Dated 14-7-1995, by exercising its powers under Section 10, Sub-Section (1), Clause (d) and Sub-Section (2-A)of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to the Tribunal:

> "Whether the action of the management of BBMB Nangal Township in terminating the services of Sh. Pratap Singh and seven others is legal and justified? If not, to what relief the concerned workmen are entitled and from which date?"

Vide order dated 31-8-1995 the Ministry supplied the list of the claimant-workmen, they are :

1. Pratap Singh
2. Jagat Ram
3. Sanjiv Kumar
4. Ram Nath
5. Ghanshyam
6. Daulat Ram
7. Jit Ram
8. Gopal Krishan

As per claim statement the workmen were employed in the Railway Sub- Division of the Bhakra Mechanical Division as skilled mazdoor on daily wages and were retrenched from service w.e.f. 31-5-1990 without any notice, notice pay or retrenchment compensation. While retrenching the petitioners juniors were retained and after retrenchment fresh hands were also engaged. Thus there is a violation of Section 25F, 25G and 25H of the Act. However, the petitioners were re-employed on 15-12-1992 but again were retrenched on 31-5-1993 without following the procedure of 'first come last go' and juniors were regularized. According to the petitioners both the terminations were illegal and void and they are entitled to reinstatement with full back wages and their wages be paid as if they are regular employees like the other juniors regularized in service since 1989.

The claim was contested by the management. It was contended that the services of the workmen were not required after completion of the job for which they had been employed on daily wages. However, the workman along with the other workmen obtained stay order in writ petition from tne Hon'ble High Court and the services or the workmen-claimants were terminated according to their seniority after the dismissal of the Writ Petition after observing necessary formalities required under the law. It was denied that any person junior to claimants was retained in service at the time of their termination. According to management workmen were recalled to work when the necessity arose due to some additional work in the Railway Sub-Division and their services were terminated on completion of the specific work for which they were recalled strictly according to their seniority and the claim therefore has no merit.

In evidence only four workmen namely Pratap Singh, Jeet Ram, Jagat Ram and Ghanshyam were examined. While the other four i.e. Sanjiv Kumar, Ram Nath, Daulat Ram and Gopal Krishan were not examined. On behalf of the management Engineer Pritpal Singh was examined. Parties relied on certain papers also.

I have heard the AR of the workmen and the Law Officer of the management. Vide statement dated 1-8-2011 of the AR the claim was pressed only for four workmen namely Pratap Singh, Jeet Ram, Jagat Ram and Ghanshyam i.e. the workmen who appeared in witness-box during hearing. So the claim remains confined now to workman Pritpal Singh, Jeet Ram, Jagat Ram and Ghanshyam only. The workmen have challenged the retrenchment of 31-5-1990 and of 31-5-1993 both. Let us examine the validity or otherwise of both the retrenchments separately.

1. **Retrenchment of 31-5-1990-** This retrenchment has been assailed on the ground of violation of Section 25F and 25G of the Act. As per claim statement the workmen were retrenched without notice, notice pay or retrenchment compensation and while terminating their service their juniors were retained. Regarding the violation of Section 25F of the Act workmen stated. that they were not given any notice before their disengagement and were not asked to receive the. arrears of wages.

Pratap Singh and Ghanshyam however during their cross-examination, admitted to have received arrears of wages and wages for the notice period. As per affidavit/ statement of management-witness notice of retrenchment dated 30-5-1990 Exhibit MW1/17 had been issued and the workmen had been directed to collect the retrenchment compensation and compensation in lieu of one month's notice in cash from the Office of Executive Engineer. But the workmen refused to collect the same. On their refusal the same was sent at their home address through registered post. But the registered letters were received back from the Postal Authority. Management has filed the photocopies of envelops of letters showing. Postal Authority remarks- they are Annexures 8, 9, 10, 12 and 14 of the affidavit of the management-witness. The witness further alleged that subsequently workman Pratap Singh and Ghanshyam received the notice, RC and wages in lieu of notice at their own on 9-6-1991. Regarding the other workmen the witness deposed in his affidavit that unpaid amount was deposited with A.O. The management has filed the unpaid acquaintance roll as Annexure 6 of the affidavit. Management also filed letter Exhibit MW1/18 by which the SDO informed the Executive Engineer about the refusal of the workmen to receive the notice.

It was argued on behalf of the workmen that the compensation was not paid at the time of retrenchment but after retrenchment and therefore the provisions of Section 25F were violated.

From the evidence led by management it is clear that workmen had been given notice of retrenchment and they had been asked to collect the amount of retrenchment compensation and compensation in lieu of one month's notice from the Office of Executive Engineer Bhakra Nangal Division. It is now well settled that giving notice or tendering payment is enough and refusal to receive the notice or payment by the workmen does not invalidate the notice or tender of payment. Merely because the workman declines to receive the notice or the payment tendered to him it cannot be said that he has not been given notice or paid wages. Occasionally it may happen that at the time of retrenchment; a workman may dodge accepting compensation with a view to invalidate the retrenchment. In such a case it may be difficult to make him accept payment, if he will not himself do that, and the employer will be in a quandary. I am therefore of the view that while retrenching the workman the provisions of Section 25F were duly complied with. Regarding the violation of Section 25G it has been stated in the claim statement that from the Office Order No.1936-53/9E dated 27-6-1990 filed by the workman, it is clear that the workman Dharampal and 13 others who were juniors to the claimant-workman were retained in the service.

Regarding this letter it was argued on behalf of the management that from the letter itself it is clear that it is in deference of the order of the Hon'ble Punjab and Haryana High Court in a Writ Petition No.2243/1990 titled Dharampal and others. The workmen in their affidavits have named Hari Om, Ram Heth and Pancham Lal as their juniors who have been retained in service. But there is no evidence in support of this allegation. Workman Ghanshyam in his statement during cross-examination has named three other persons in this regard but he has admitted that those persons are unskilled labourers. Similarly Jeet Ram has also named several persons junior to him but he also has admitted that the said juniors were unskilled labourers. It is therefore clear that the workmen have failed to prove that

537 GI/13-24

while retrenching their service juniors were retained in service.

From the above going discussion it is thus clear that the retrenchment of the workman-claimant on 31-5-1990 is not in violation of Section 25F or 25G of the Act.

2. **Termination of 31-5-1993.** The tenure which ended on 31-5-1993 was of a very short period. The workmen had been re-employed on 15-12-1992 and were retrenched on 31-5-1993. It has been assailed only on the ground that the juniors to the workmen were regularized. The management in its written statement has alleged that this contention is baseless.

The workmen in their affidavit have alleged that the persons named in the affidavits who were junior to the cla.imant-workman in the category of skilled mazdoor were brought to the seniority list of the unskilled mazdoor and thus retained in the service. But as it has already been stated, the order in this regard had been passed in deference to the order of Hon'ble Punjab & Haryana High Court. There is no evidence in support of the contention of the claimant-workmen that juniors to them were retained or regularized. Against it from the statement of Jeet Ram the juniors who were retained in service and regularized were of different category. Hence, no violation of Section 25G is proved in the retrenchment of 31-5-1993.

In the claim statement violation of Section 25H of the Act has also been alleged but re-employment in terms of Section 25H of the Act presupposes a valid termination and therefore constitutes a different causes of action. It can be gone into only if a reference is made in this regard. From the above going discussion it is clear that termination of the services of the workmen-claimant is legal and justified and the workmen are not entitled to any relief. It may be reiterated that vide statement dated 1-8-2011 of the AR of the workmen the claim regarding claimant. Sanjiv Kumar, Ram Nath, Daulat Ram and Gopal Krishan was not pressed. The reference is decided against the claimant-workmen. Let two copies of the award be sent to the Central Government for further necessary action.

ASHOK KUMAR RASTOGI, Presiding Officer

नई दिल्ली, 31 जनवरी, 2013

का.आ. 479.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, धनबाद के पंचाट (आईडी संख्या 180/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-20012/231/2001-आई आर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 31st January, 2013

S.O. 479.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 180/2001) of the Central Government Industrial Tribunal-Cum-Labour Court No.1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workman, which was received by the Central Government on 30-1-2013.

[No. L-20012/231/2001-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. I), DHANBAD

IN THE MATTER OF A REFERENCE U/S 10(1)(D)(2A) OF I. D. ACT, 1947

Ref. No. 180 of 2001

Employers in relation to the management of Barora Coal Washery of M/s. BCCL.

AND

Their workmen

Present:- SRI RANJAN KUMAR SARAN, Presiding Officer

Appearances:

For the Employers :- None

For the workman. :- Sri K.Chakraborty Adv.

State :- Jharkhand. Industry:- Coal.

Dated. 18-1-2013

AWARD

By order No.L-20012/231/2001-IR (C-I), dt.10-8-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

"क्या भारत कोकिंग लि. वरोरा कोल बारारी के प्रबंधतंत्र द्वारा श्रीमती किरण देवी धर्मपत्नी श्री जयकुमार को NCWA-V के पैरा 9:3:2 के अन्तर्गत नियुक्ति न किया जाना उचित एवं न्यायसंगत है? यदि नहीं तो उक्त आश्रित किस लाभ की पात्र है ?"

After receipt of the reference, both parties are noticed. Respective parties filed their written statement. Workman representative is present but he is not interested to contest the case and not pressing. It is felt there is no-dispute between the parties. Hence "No Dispute" Award passed. Communicate to the Ministry.

R. K. SARAN, Presiding Officer

नई दिल्ली, 31 जनवरी, 2013

का.आ. 480.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, धनबाद के पंचाट (आईडी संख्या 106/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-20012/325/1994-आई आर (सी-I)]
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 31st January, 2013

S.O. 480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 106/1995) of the Central Government Industrial Tribunal -Cum-Labour Court No.1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workman, which was received by the Central Government on 30-1-2013.

[No. L-20012/325/1994-IR (C-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. I), DHANBAD

IN THE MATTER OF A REFERENCE U/S 10(1) (D) (2A) OF I. D. ACT, 1947

Ref. No. 106 of 1995

Employers in relation to the management of Barora Area No. 1 of M/s.. B. C. C. L.

AND

Their workmen

Present:- SRI RANJAN KUMAR SARAN,
Presiding Officer

Appearances:

For the Employers :- None
For the workman. :- None
State :- Jharkhand. Industry:- Coal.

Dated. 18-1-2013

AWARD

By order No.L-20012/325/94-IR (C-I), dt. 25-8-1995 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Wheter the action of the General Manager, Barora Area -I of M/s. BCCL in denying to regularize Shri Narendra Kumar Sharma, General Mazdoor as Assistant Store Keeper is justified ? If not, to what relief is the concerned workman entitled ?"

After receipt of the reference; both parties are noticed. Respective parties filed their written statement. But subsequently none appears though noticed. It is felt there is no dispute between the parties. Hence "No Dispute" Award passed. Communicate to the Ministry.

R. K. SARAN, Presiding Officer

नई दिल्ली, 31 जनवरी, 2013

का.आ. 481.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, धनबाद के पंचाट (आईडी संख्या 57/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-20012/65/2004-आई आर (सी-I)]
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 31st January, 2013

S.O. 481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 57/2004) of the Central Government Industrial Tribunal -Cum-Labour Court No.1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workman, which was received by the Central Government on 30-1-2013.

[No. L-20012/65/2004-IR (C-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. I), DHANBAD

In The Matter of a Referance U/s 10(1) (D) (2A) of I. D. Act, 1947

Ref. No. 57 of 2004

Employers in relation to the management of western washery zone of M/s. B.C. C. L.

AND

Their workmen

Present:- SRI RANJAN KUMAR SARAN.
Presiding Officer

Appearances:

For the Employers : None

For the workman. : None

State : Jharkhand. Industry: Coal.

Dated the 18th January, 2013

AWARD

By Order No.L-20012/65/2004-IR (C-I), dt. 16-6-2004 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Western Washery Zone, BCCL , Mohuda to change the date of increment of Sri A. K. Lal from June to January and his increment code from "F" to "E"is justified ? If not, to what relief is the workman entitled and from what date ?"

After receipt of the reference, both parties are noticed. Respective parties filed their written statement. But subsequently none appears though noticed. , It is felt there is no dispute between the parties. Hence "No Dispute" Award passed. Communicate to the Ministry.

R. K. SARAN, Presiding Officer

नई दिल्ली, 31 जनवरी, 2013

का.आ. 482. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.1, धनबाद के पंचाट (आईडी संख्या 110/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं. एल-20012/465/2000-आई आर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 31st January, 2013

S.O. 482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 110/2001) of the Central Government Industrial Tribunal -Cum-Labour Court No.1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL, and their workman, received by the Central Government on 30-1-2013.

[No. L-20012/465/2000-IR (C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

In The Matter of a Referance U/s 10(1) (D) (2A) of I. D. Act, 1947

Ref. No. 110 of 2001

Employers in relation to the management of Sijua Area of M/s. B. C. C. L.

AND

Their workmen

Present:- SRI RANJAN KUMAR SARAN, Presiding Officer

Appearances:

For the Employers :- None

For the Workman. :- None

State :- Jharkhand. Industry:- Coal.

Dated. 18th Jan., 2013

AWARD

By Order No.L-20012/465/2000-IR (C-I), dt. 30-4-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of BCCL, Sijua Area in denying employment to the step son of the workman Sri Dulia Kamin is just, proper and legal ? If not, to what relief is the said dependent entitled ?"

After receipt of the reference, both parties are noticed. They filed their respective written statement and rejoinder has been filed. On behalf of the management one witness examined and one document is marked . But from the side of the workman, none appears inspite of valid notice About 11years has been elapsed, it is felt, there is no dispute between the parties.

Hence "No Dispute" Award passed. Communicate to the Ministry.

R. K. SARAN, Presiding Officer

नई दिल्ली, 31 जनवरी, 2013

का.आ. 483.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जैगसन एयरलाइन्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (आई डी संख्या 105/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2013 को प्राप्त हुआ था ।

[सं एल-11012/47/2001-आई आर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 31st January, 2013

S.O. 483.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Jagson Airlines Ltd. and their workman, which was received by the Central Government on 30-1-2013.

[No. L-11012/47/2001-IR (C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE DR. R.K.YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DELHI

I.D.No.105/2011

Shri C.L.Gupta,
193-E, Defence Colony,
Kanpur - 208010. Workman .....

Versus

The Director,
M/s. Jagson Airlines Ltd.,
12-E, Bandana Building,
11, Tolstoy Marg,
New Delhi. Management. .....

AWARD

An Aircraft Maintenance Engineer was appointed by M/s. Jagson Airlines Ltd. (in short the Airlines). His wages for the months of July, August and November 98 were not paid. He requested the Airlines to release his wages, but in vain. His services were dispensed with the Airlines with effect from 29.12.1999, vide letter dated 01.01.2000. He raised a demand on the Airlines for reinstatement in services as well as for release of his salary, which demand was not conceded to. Aggrieved by the said act of the Airlines, he raised an industrial dispute before the Conciliation Officer. Since the Airlines contested his claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to his Tribunal for adjudication, vide order No.L-11012/47/2001/IR-(C-I) New Delhi dated 21-09-2001 with following terms:

"Whether action of the management of M/s Jagson Airlines Ltd. In terminating services of Shri C.L. Gupta, Aircraft Maintenance Engineer, Category (C) with effect from 29.12.1999 and non payment of salary for the months of July, August and November 98 is fair, legal and just? If not, to what relief is the said workman entitled to?"

2. Claim statement was filed by the Aircraft Maintenance Engineer, namely, Shri C.L. Gupta, pleading that he was appointed by the Airlines vide letter dated 05.05.97. His consolidated salary was Rs.15,000.00 per month. Main predominant nature of his duties were highly skilled/technical. He used to perform duties of engine installation, propeller inspection, control of aircraft and filed work etc. Service Certificate, issued by the Airlines, unfolds that aforesaid duties were performed by him, hence he was a workman. He projects that it is settled law that Aircraft Maintenance Engineer is a workman.

3. His services were terminated by the Airlines with effect from 29-12-1999 vide letter dated 01-01-2000, pleads the claimant. Termination of his service is illegal and invalid. No notice or pay in lieu thereof and retrenchment compensation was given to him when his services were terminated. Act of the Airlines in terminating his services is violative of provisions of section 25 F of the Industrial Disputes Act, 1947(in short the Act). Action of the Airlines amounts to unfair labour practice. Neither any charge sheet was issued nor any enquiry conducted against him. No reasonable opportunity of being heard was given to him, before terminating his services.

4. Shri M.M. Mehta and Shri K. Kumar are serving the Airlines as Aircraft Maintenance Engineers despite reaching the age of 72 years. No age limit is prescribed for Aircraft Maintenance Engineer in whose favour licence has been issued by the Director General, Civil Aviation, Government of India, New Delhi. Claimant was holding licence for Aircraft Maintenance Engineer, Category(C) which was valid upto 09-02-2002. Renewal of that licence depended on his continuance in employment. Since his services were abruptly terminated, which was a disability for renewal of his licence. Claimant further pleads that his wages for the months of July, August and November 1998 were not paid. Service benefits, such as bonus, provident fund, medical leaves etc. were not granted to him. Vide letter dated 26-02-1999, he made a request for release of his salary for three months. Instead of paying his salary, his services were terminated by the Airlines, which act amounted to victimization. Before the Conciliation Officer, the Airlines claimed that a sum of Rs.1,53,500.00 was earned by him, out of which a sum, of Rs.1,35,000.00 was paid and there was a balance of Rs.18,500.00, which was payable to

him. According to him, these facts and figures, placed before the Conciliation Officer, were wrong. The Airlines adopted the policy of hire and fire, which is violative of natural justice. He was appointed by the Director of the Airlines and his services were dispensed with by an officer of lower rank. The authority who terminated his services was incompetent to do so. He claims that order of termination may be held void ab-initio and he may be reinstated in service with back wages and all consequential benefits besides salary for the months of July, August and November 1998.

5. Demurral was made by the Airlines pleading that order of reference is composite, wherein two different matters are referred for adjudication. The issue relating to entitlement of wages does not fall within the ambit of section 2 A of the Act. Dispute relating to release of his wages for the months of July, August and November 1998 was not espoused by a considerable number of workmen and as such, it is not an industrial dispute. The Airlines pleads that the appropriate Government reached a conclusion that salary for July, August and November 1998 was not paid to the claimant. It was not within competence of the appropriate Government to decide a complicated question, whether relating to fact or law. Therefore, reference made by the appropriate Government is not proper.

6. The Airlines asserts that the claimant was not performing manual, technical or clerical duties. His main duties were administrative, managerial and supervisory. His salary was far above Rs.1600.00 per month. Hence, he does not answer status of a workman. Shri Gupta was above the age of superannuation. He could be superannuated at any time. He was not entitled to continue in employment of the Airlines, indefinitely.

7. Airlines projects that there is no dispute relating to his appointment as an Aircraft Maintenance Engineer, Category (C) vide appointment letter dated 05-05-1997. Facts to the effect that the claimant used to perform duties of engine installation, propeller inspection, control of aircrafts and other field work etc. Were also not disputed. Fact on of termination of his services, with effect from 29-12-1999, has also been conceded by the Airlines. It is also not a matter of dispute that termination of his services was not based on any misconduct or domestic enquiry.

8. The Airlines opted not to give an answer to the proposition that Shri M.M. Mehta and Shri K. Kumar were serving as Aircraft Maintenance Engineers even on reaching the age of 72 years. It also came up with no response to the proposition that there was no age limit prescribed for an incumbent to serve as Aircraft Maintenance Engineer. Validity of licence, issued in favour of the claimant, upto 09-02-2002 and its renewal by the Director General, Civil Aviation, depended upon continuance of the claimant in service were also not been disputed. The Airlines made an evasive reply to these facts projecting that misconceived and incorrect circumstances were detailed in the claim statement.

9. Evasive reply was made by the Airlines to the proposition that salary for the months of July, August and November 1998 was not paid to the claimant. It is also not disputed that the claimant demanded release of his salary for the aforesaid period vide letter dated 15-03-2000. However, the Airlines claim that his letter was duly replied. Issuance of appointment letter by the Director of the Airlines is also an admitted fact. The Airlines does not dispute that his termination order was signed by a person lower in rank than the appointing authority. However, it has been claimed that termination was legal and passed by the competent authority. Since Shri Gupta attained age of superannuation, he is not entitled for reinstatement in service of the Airlines. It has been claimed that an award may be passed in favour of the Airlines and against the claimant.

In rejoinder, facts pleaded in the claim statement have been reiterated.

On pleadings of the parties, following issues were settled by my learned predecessor:

(1) Whether dispute raised pertaining to wages is not covered under Section 2(k) of the Industrial Disputes Act, 1947?

(2) Whether the claimant is a workman under the Industrial Disputes Act, 1947?

(3) As in terms of reference.

(4) What relief the workman is entitled to?

12. Vide order No.Z-22019/6/2007/IR-(C-II), New Delhi dated 04-02-2008, case was transferred to Central Government Industrial Tribunal No.II, New Delhi, for adjudication by the appropriate Goverament. It was re-transferred to this Tribunal for adjudication by the appropriate Government vide order No.Z-22019/6/2007/IR-(C-II) New Delhi dated 30-3-2011.

13. Claimant examined himself in support of his claim. Shri Ajay Singhal, entered the witness box to testify facts on behalf of the Airlines. No other witness was examined by either of the parties.

14. Arguments were heard at the bar. Shri B.K. Prasad, authorized representative, advanced arguments on behalf of the claimant. Shri Vipin Kumar, authorised representative, detailed his point of view on behalf of the Airlines. I have given my careful to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

Issue No.1.

15. At the outset, Shri Vipin Kumar argued that reference order is composite, which contains question

relating to legality and justifiability of termination of services of the claimant with effect from 29-12-1999 and non-payment of salary for the months of July, August and November, 1998. He contents that the question, relating to non-payment of salary of the claimant for the aforesaid months falls within the ambit of industrial dispute, defined in Section 2(k) of the Act. According to him, such an industrial can be raised by a union or considerable number of the workmen in the establishment of the management. He argued that the cause of the claimant, relating to non-payment of his salary for the months of July, August and November, 1998, has not been espoused either by a union or considerable number of workmen in the establishment of the management and as such it does not acquire status of an industrial dispute. According to him, this Tribunal cannot entertain the dispute relating to non-payment of salary for July, August and November, 1998, since it is an individual dispute. Contra to it, Shri Prasad presents that the said dispute was referred by the appropriate Government alongwith issue relating to legality and justifiability of termination of services of the claimant with effect from 29-12-1999, which is an industrial dispute within the meaning of Section 2A of the Act. When the appropriate Government made reference of the dispute, which was an industrial within the meaning of Section 2A of the Act, it was within its competence to add a question relating to non-payment of salary of the claimant for the aforesaid months, for adjudication. He presents that the submission made by the Airlines is uncalled for.

16. For an answer to the proposition raised by the Airlines, it is expedient to consider definition of the phrase 'industrial dispute'. Section 2k of the Act, defines industrial dispute, which definition is extracted thus:

"industrial dispute" means any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;

17. The definition of "Industrial dispute" referred above, can be divided into four parts, viz. (i) factum of dispute, (2) parties to the dispute, viz.(a) employers and employers (b) employer and workmen, or (c) workmen and workmen, (3) subject matter of the dispute which should be connected with -(i) employment or non employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an "industry".

18. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word workman it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order, therefore, to determine as to whether a controversy or difference or a dispute is an "an industrial dispute" or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause (s) of Section 2 of the Act. This proposition is taken for consideration in subsequent Sections, while adjudicating issue No.2, referred above.

19. The object of the Act is to protect workman against victimization by the employer and ensure termination of industrial dispute in a peaceful manner. The Act, however, does not provide for any set of social and economic principles for adjustment of conflicting interests. Such norms have been evolved and devised by industrial adjudication, keeping in view the social and economic conditions, the needs of the workmen, the requirement of the industry, social justice, relative interests of the parties and common good. These norms have given rights to the industrial employees what may be called industrial rights, as such rights may not be available at common law. Disputes as to the conditions of employment can be resolved by resorting to a technique known as collective bargaining. This tool is resorted to between an employer or group of employers and a bonafide labour union. Policy behind this is to protect workmen as a class against unfair labour practices. What imparts to the dispute of a workman the character of an "industrial dispute" is that it affects the right of the workman as a class.

20. The Apex Court put gloss on the definition of "industrial dispute" in Dimakuchi Tea Estate [1958 (1) LLJ 500] and ruled that the expression "any person" in clause (k) of Section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment, the person regarding whose employment, non employer, terms of employment or conditions of labour, the dispute is raised need not be strictly speaking "workman" within the meaning of the Act, but must be one in whose employment, non-employment, terms of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus:

"We also agree with the expression "any person" is not co extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances."

21. In Kyas Construction Company (Pvt.) Ltd. [1958 (2) LLJ 660] the Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression "industrial dispute "is wide enough to cater a dispute raised by the employer's workman with regard to non employment of others, who may not be employed as workman at the relevant time. The Apex Court in Bombay Union of Journalist [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

22. The expression "industrial disputes" has been construed by the Apex Court to include individual disputes, because of the scheme of the Act. In Raghu Nath Gopal Patvardhan [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it cannot be per-se be an industrial dispute but may become if it is taken up by a trade union or a number of workman. In Dharampal Prem Chand [1965 (1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of Indian Express Newspaper (Pvt.) Limited [1970 (1) LLJ 132]. However in Western India Match Company [1970 (II) LLJ 256], the Apex Court referred the precedent in Dima Kuchi Tea Estate's case (supra) and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour the parties dispute for a direct or substantial interest".

23. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the union. In the absence of a such a determination by the Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in P. Somasundrameran [1970 (1) LLJ 558].

24. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman's cause, it is sufficient to convert it into an industrial dispute. In Pardeep Lamp Works [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual

workmen themselves. But their case was subsequently taken up by a new union formed by a large number of co-workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

25. It is not expedient that same union should remain incharge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen. It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co. Ltd. [1970 (II) LLJ 256].

26. A long line of decisions, handed down by the Apex Court, had established that an individual dispute could not per se be an industrial dispute, but could become one if it was taken up by a trade union or a considerable number of workmen of the establishment. This position of law created hardship for individual workmen, who were discharged, dismissed, retrenched or whose services were otherwise terminated when they could not find support by a union or any appreciable number of workman to espouse their cause. Section 2A was engrafted in the Act by the Amendment Act of 1965 and it has to be read as an extension of the definition of industrial dispute contained in clause (k) of section 2 of the Act. Thus by way of extension of definition of industrial dispute, by insertion of section 2A of the Act, the dispute of an individual workman connected with or arising out of his discharge, dismissal, retrenchment or otherwise termination of his service by his employer has been brought within the ambit of the Act."

27. Now I turn to facts, I his affidavit, Ex.WW1/A, claimant does not speak that his dispute, relating to non-payment of his wages, was espoused by the union or a considerable number of the workmen in the establishment of the Airlines. In his cross examination, he concedes that his claim has not been espoused by considerable number of workmen. Therefore, it is evident that the claimant does not project a case to the effect that his dispute, relating to non-payment of salary for the months of July, August and November 1998, was espoused by a union or considerable number of workmen in the establishment of the Airlines.

28. An industrial workman has got a very restricted right to move an industrial court when his service conditions have been changed to his prejudice during pendancy of an industrial dispute or he has been dismissed or discharged during such pendancy, under section 33A of the Act. He has a right to recover certain dues from his employer under section 33(C)(2) of the Act. An individual workman who had been thrown out of employment had to rely for redress only through aegis of the union or his co-workers where there was no union. Sometimes he found it hard to proceed further or get the union to take up his cause. Besides, there are industries where so far no union have been formed. Workers are still, in certain industries, unorganised. Enactment of section 2A of the Act was taken up by the Parliament solely with a view to modify the law to raise industrial disputes relating to discharge, dismissal, retrenchment or otherwise termination of services of a workmen.

29. Classification between workmen unaided by union or considerable number workmen and workman whose cause is espoused by a union or considerable number of workmen has been made by the legislature when provisions of section 2A were brought on the statute book. Thus, it is evident that by way of extension of definition of industrial dispute relating to discharge, dismissal retrenchment or otherwise termination of service of a workman, the legislature provided remedy to the workman who is unaided by a union or considerable number of workmen. However section 2A of the Act does not destroy the concept of individual dispute and collective dispute and such concept still remains as a major class and in all other provisions of the Act. Consequently, it is evident that excepting the dispute relating to discharge, dismissal, retrenchment or otherwise termination of services of a workman, a dispute is to be espoused by a union or considerable number of workmen to acquire status of an industrial dispute. As pointed out above, dispute of the claimant, relating to non-payment of his salary for the months of July, August and November 1998, has not been espoused either by a union or considerable number of workmen. Thus, second limb of the reference order projects dispute which has not acquired status of an industrial

dispute issue is, therefore, answered in favour of the workman and against the claimant.

Issue No. 2

30. In order to clothe himself with character of workman, claimant projects in his affidavit Ex.WW1/A that nature of his duties were engine installation, propeller installation, control of aircraft and other field work etc. Main and predominant nature of his duties were highly skilled/technical, being an Aircraft Maintenance Engineer. During course of cross examination, he narrates that he used to look after engine of the aircraft and its maintenance. He was also asked to act as Store Incharge and perform those duties too. His designation was Deputy Quality Controller.

31. Shri Ajay Singhal unfolds in his affidavit Ex. MW1/A, tendered as evidence, that work of Quality Control Manager and Deputy Quality Control Manager is totally managerial and supervisory in nature. Duties of such an officer mainly includes assuring quality of aircraft engine manuals of Director General, Civil Aviation (Government of India)through his subordinates. He has to order procurement of materials from market and lessoning with the Director General, Civil Aviation. He represents the Airlines before the authorities. Duties of technicians are fixed and supervised by the engineers, who in turn reports to the Quality Control Manager/Deputy Quality Control Manager. Ordinarily 30-40 persons work under him, including Engineers and Technicians. He has to sanction leave for these employees. Discipline of employees vests in Quality Control Manager/Deputy Quality Control Manger. Quality Control Manager/Deputy Quality Control Manager does not discharge any manual, clerical or operational work. Claimant had the authority for purchase of goods, supervise work of his subordinate, allotment of work to them, grant or sanction leaves, maintain discipline, control and regulating attendance and duties rotation. Claimant used to correspond independently with private parties. He declares that Shri Gupta was not a workman.

32. In order to appreciate above facts, it would be expedient to consider definition of the term 'workman'. The term "workman" has been defined by section 2(s) of the Act, which definition is reproduced thus:

"(s)Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957), or

(ii) who is employed in the police service or as an officer or other employee of a prison, or

(iii) who is, employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature".

33. The first part of the definition gives statutory meaning of the term workman. This part of the definition determines a workman by reference to a person (including an apprentice) employed in an "industry" to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. This part determines what a "workman" means. The second part is designed to include something more in what the term primarily denotes. By this part of the definition, person (i) who have been dismissed, discharged or retrenched in connection with an industrial dispute, or (ii) whose dismissal, discharge or retrenchment has lead to an industrial dispute, for the purposes of any proceedings under the Act in relation to such industrial dispute, have been included in the definition of "workman". This part gives extended connotation to the expression "workman". The third part specifically excludes the categories of persons specified in clauses (i) to (iv) of this sub-section. The third part connotes that even if a person satisfies the requirements of any of the first two parts but if he falls in any of the four categories in the third part, he shall be excluded from the definition of 'workmen'. Not olny the persons who are actually employed in an industry but also those who have been discharged, dismissed or retrenched in connection with or as a consequence of an industrial dispute, and whose dismissal, discharge or retrenchment has lead to that dispute, would fall within the ambit of the definition. In other words, the second category of persons included in the definition would fall in the ambit of the definition, only for the purpose of any proceedings under the Act in relation to an industrial dispute and for no other purposes. Therefore, date of reference is relevant and in case a person falls within the definition of workman on that day, the Tribunal would be vested with jurisdiction to entertain it and the jurisdiction would not cease merely because subsequently the workman ceases to be workman.

34. For an employee in an industry to be a workman under this definition, it is manifest that he must be employed to do skilled or unskilled manual work, supervisory work, technical work or clerical work. If the work done by an employee is not of such a nature, he would not be a

workman. The specification of the four types of work obviously is intended to law down that an employee is to become a workman only if he is employed to do work of one of those types, while there may be employees who, not doing any such work, would be out of the scope of the word 'workman', without having resort to the exceptions. It cannot be held that every employee of an industry was to be a workman except those mentioned in the four exceptions as in that case these four classifications need not have been mentioned in the definition and a workman could have been defined as a person employed in an industry except in cases where he was covered by one of the exceptions.

35. In cases where an employee is employed to do work is skilled or unskilled manual work, or supervisory work or technical work or clerical work there would be no difficulty in holding him to be a workman under the appropriate classification. Frequently, however, an employee is required to do more than one kind of work. In such cases, it would be necessary to determine under which classification he will fall for the purpose of finding out whether he does not go out of the definition of 'workman' under the exceptions. The principle is now well settled that for this purpose, a workman must be held to be employed to do that work which is the main work he is required to do even though he may incidentally doing other type of work.

36. The words 'managerial or administrative capacity' have not been defined in the Act, therefore have to be interpreted in their ordinary sense. In an establishment, a person may be in a managerial capacity or administrative, if the work assigned to him require a degree of initiative command and control which are usually associated with the position of managerial or administrative capacity. In deciding such a question, one has to consider the functions and duties assigned to the person. Several tests, laid down by the Apex Court in Prem Sagar [1964(1) LLJ 47] for deciding the question as to whether a person is employed in managerial capacity, are as follows:

"It is difficult to lay down exhaustively all the tests which can be reasonably applied in deciding this question as several considerations would naturally be relevant in dealing with this problem. It may be inquired whether the person had a power to operate on the bank account or could he make payments to third parties and enter into agreements with them on behalf of the employer was he entitled to represent the employer to the world at large in regard to the dealings of the employer with strangers, did he have authority to supervise the work of the clerks employed in the establishment, did he have control and charge of the correspondence, could he make commitments on behalf of the employer, could he grant leave to the members of the staff and hold disciplinary proceedings against them, has he power to appoint members of the staff or punish them: these and similar other tests may be usefully applied in determining the question about the status of an employee . . ."

37. Operation of bank account, controlling of staff, carrying on correspondence, disbursing salary and convening meetings, were held to be managerial jobs in Sunil Kumar Ghosh [1978 (37) FLR 247]. The mere fact that the employee was designated as a manager or that he represented the management in prior adjudication proceedings cannot by itself prove that he was performing 'managerial duties' within the meaning of section 2(s)(ii) or 2(s)(iii) of the Act. Reliance can be placed on precedent in P.A.S. Press [1960 (1) LLJ 792]. For determination of such a question, no abstract or rigid formula can be employed. His main and substantial work is to be looked into. Reference can be made to precedent in the management of Scindia Potteries [1974 (29) FLR 325]. In order to take an employee out of definition of 'workman', it is necessary to show that he is employed, in fact and in substance, mainly in a managerial or administrative capacity. See Syndicate Bank Ltd. [1966 (11) LLJ 194] and Ved Prakash Gupta [1984 Lab. I.C. 658].

38. Merely performing some supervisory duties will not take out an employee out of the ambit of definition of workman. The word 'supervision' means to oversee or to look after. Supervision which is relevant in this connection is the supervision done by an employee in a higher position over the employees in the lower position. Supervision may be in relation to the work or in relation to the person. The word 'supervisory' as used in section 2(s) of the Act does not relate to supervision of an automatic plant. Many machines run automatically on power. They do not have to be run by human energy. Their running and functioning has to be watched and repaired if anything goes wrong. A person who attends to such machines may either do technical or manual work within the meaning of section 2(s) of the Act. But he does not do supervisory work merely because he looks after the machine. The essence of supervisory nature of work under section 2(s) of the Act is the supervision by one person over the work of another. See Blue Star Ltd. (1975 (31) FLR 102).

39. A person can be said to be a supervisor if there are persons working under him, over whose work he has to keep a watch. In other words, he is that person who examines and keeps a watch over the work of his subordinates and if they err in any way, corrects them. It is his duty to see that the work in any industrial unit is done in accordance with the manual, if there is one, or in accordance with the usual procedure If is not' his function to bring about any innovation. It is not his function to take any managerial decision but it is his duty to see that the persons over whom he is supposed to supervise the work assigned to them, they work according to rules and regulations. The central concept of supervision is the fact that there are certain persons working under him. The essence of supervisory work is the supervision by one person over the work of others. For exercising supervisory powers, it may often be necessary that the supervisor himself must have technical expertise, otherwise he may not be in a position to exercise proper supervision of the

workmen handling sophisticated plants and machines. A supervisor need not be a manager or an administrator. He can be a workman so long as he does not exceed the wage limit of Rs. 1600.00 per month and irrespective of his salary, is not a workman who is to discharge functions mainly of managerial nature by reason of the duties attached to his office or powers vested in him.

40. A person cannot be said to be working in a supervisory capacity merely because he used to supervise a person who helps him in doing the work, which he himself is to perform. For instance, a clerk who has been given the assistance of the peon cannot be said to be working in a supervisory capacity. When one talks of a person working as supervisor, one understands it to mean a person who is watching the work being done by others to see that it is being done properly. See Madur Aviation [1977 (II) LLJ 225]. Thus in determining the status of an employee, his designation is not decisive. What determines the status is the consideration of the nature of his duties and functions assigned to him. A supervisor should occupy a position of command or decision and should be authorised to act in certain matters within the limits of his authority without the sanction of the manager or other supervisors. In the absence of precise and positive evidence to prove the exact nature of work which the employee was performing, it cannot be held that he was doing administrative or supervisory work.

41. When efforts are made to appreciate facts on the above lines, it is emerged over the record that no dispute was raised from the side of the Airlines that the claimant was performing duties of engine installation, propeller inspection, control of aircraft and other field work etc. The claimant has relied on certificate EX.WW1/5 wherein it has been mentioned that he had exercised privileges of his Aircraft Maintenance Enginees Licence and was engaged in line scheduled and un-scheduled maintenance, which included Check A and Check B, inspection schedules upto 4800 hours, installation of new engines, their control rigging, ground running, minor rectification and replacement carrying out minor modifications etc. He was also associated with carrying out inspection schedules upto 4800 hours and 36 months on the airframe systems of Dornier 228 aircraft. He last exercised the privileges of his licence on 20-12-1999 by certification in the Engine Log Book. It has also been mentioned that he had performed duties of engine and dressing, control rigging, engine ground running, testing and tune up of aircraft maintenance inspection, daily inspection of the aircraft and aircraft flying snag rectification and documentation, aircraft manufacturing of wings, fuel flow test etc. It has also been mentioned therein that the claimant used to report to the Deputy General Manager (Administration), while Deputy Manager and Engineers used to report to him for duties.

42. To ascertain whether the claimant was working merely in managerial, administrative or supervisory cadre, evidence adduced by the parties is to be scrutinized. At the cost of repetition, it is pointed out that Shri Singhal declares in his affidavit EX.MW1/A that work of Quality Control Manager and Deputy Quality Control Manager is totally of managerial and supervisory in nature. It mainly includes assuring quality of engineering manuals issued by Deputy General, Civil Aviation, through his subordinates and order procurement of material from market, besides lessoning with the office of Director General, Civil Aviation. Quality Control Manager and Deputy Quality Control Manager represent the Airlines before the Director General, Civil Aviation and other authorities. Duties of technicians are fixed and supervised by the engineers, who in turn report to the Quality Control Manager/Deputy Quality Control Manager. Ordinarily 30-40 persons work under the claimant, including engineers and technicians. The above facts were not dispelled by the claimants when testimony of Shri Singhal was purified by an ordeal of cross examination. Thus it stood established that there were 30-40 persons, including technicians and engineers, who were working under the claimant. Documents, viz. Ex.MW1/1 to Ex.MW1/9 bring it over the record that the claimant used to sanction leaves for his subordinates. Claimant failed to dispel that he used to sanction leaves for his subordinates.

43. Ex.MW1/9 projects that the claimant used to assign duties of employees working in Quality Control Cell. As emerge out of the Ex.MW1/9, claimant assigned duties of technical officer and technical assistants, when Shri Anit Kumar Patel, Technical Officer tendered his resignation in May 1997. He assigned duties of issuance of check A and check B and attending aircrafts for pilots acceptance to Shri Kundan Sharma, Technical Assistant. Preparation of reports relating to safety audit and internal audit was part of duties of Shri Hitesh Handa, Technical Officer. Shri Handa was also to make out calls in advance for 200 hours and 500 hours schedule inspection of aircrafts. He was also supposed to upkeep service bulletin in respect of Dornier 228 Aircraft, It was one of the functions of Shri Handa to prepare in advance for A check. In the same manner, Shri Kundan Sharma is to take care of average fuel consumption graph and engine trained monitoring SOAP analysis record and test record. He used to issue flight sector report and maintenance schedules. Maintenance records of delay, defects and incidents was also one of the duties of Shri Sharma. Chandrakanta is to update aircraft status on board. Therefore, out of duties detailed above, it is emerging over the record that technical officer and technical assistants were performing duties, such as inspection and control of aircraft, besides other field work. There is no dispute that technicians and engineers used to report to Shri Gupta. Therefore, above facts give support to deposition of Shri Singhal wherein he announces that the claimant was carrying out different duties, relating to assuring of quality control and aircraft engineering manuals, through his subordinates.

44. Ex. MW1/1 0 to Ex MW1/29 project that Shri Gupta used to represent the Airlines before the Director

General, Civil Aviation and other establishments. Ex.MW1/ 19 was written by him to the Director of Airworthiness requesting him that authorisation of Shri Sanjiv Malhotra, Aircraft Maintenance Engineer, may be renewed for a further period of three months. He has also mentioned herein that Shri H.R. Sharma, Aircraft Maintenance Engineer will associate himself with Shri Sanjiv Malhotra during overhaul work of break removal Dornier 228 aircraft. Same proposition emerge out of Ex.MW1/11, where he requested the Director of Airworthiness to extend authorization of Shri H.K. Sharma, Aircraft Maintenance Engineer, for further period of six months. Ex.MW1/12 was written by him in respect of Shri M.M. Matta, requesting that his authorization to carry out and certify change of carbon brushes and testing fuel heater unit on Dornier 228 Aircraft may be extended for another three months. Ex.MW1/14, Ex.MW1/15, Ex.MW1/ 16, Ex.MW1/17, Ex.MW1/21, Ex.MW1/22 and Ex.MW1/23 were written by the claimant to Director of Airworthiness requesting extension of authorization of Shri Matta, Shri J.S. Reyat, Shri H.R. Sharma and Shri P.D. Dhoundiyal from time to time. Ex.MW1/13 was written by the claimant to the Director of Airworthiness, when he sent demand draft of Rs.3060.00 towards fee of renewal of certificates of authorization issued in favour of engineers and pilots of the Airlines. He wrote to the Vice President of the Airlines asking him to take steps for procurement of altimeter for [illegible] Shri Somerjya for the claimant was in a position to take decisions relating to procurement of altimeter for aircrafts. In Ex.MW1/18 he talks of ground battery cart, which was to be serviced and asked for issuance of cheque of Rs.2720.00 in favour of M/s Super Batteries for procurement of lead acid batteries. Ex.MW1/20 was written by him for procurement of voltmeter. Ex.MW1/24 tells that he asked the authorities for issuance of cheque for Rs.9680.00 in favour of Hindustan Aeronautics Ltd., Bangalore towards Soap analysis of Oil/Oil Filter samples. In Ex.MW1/25 he asks for an advance of Rs. 4000.00, since he was to proceed to Kanpur in connection with repair of radome, leading edger and overhaul of KLG (Port) Actuator. Ex.MW1/26 was written by him to M/s. Uma Aviation Consumables confirming a purchase order on behalf of the Airlines. Ex.MW1/27 was written by him asking for issuance of cheque for Rs.6281.00 in favour of M/s. Uma Aviation Consumables. He also represented the Airlines before HAL Aircraft Batteries Limited, Hyderabad. He asked for quotation for hydrostatic testing and recharging of fire extinguisher bottles from the Deputy General Manager Engineering, Air India, Mumbai. These documents bring it over the record that the claimant was representing the Airlines before the Director General, Civil Aviation and other establishments. instances, detailed above, make it apparent that the claimant was performing managerial duties for the Airlines.

45. From the duties entrusted to the claimant, it is to be ascertained as to whether the main and substantial work which he does is not that of supervisory nature. As detailed above, there are 30-40 employees who assist him. Can it be said that with the assistance of battery of employees, the claimant was carrying out his technical work? Answer lies in negative. No evidence has come over the record that the claimant used to perform large part of his technical work himself, with the assistance of his team of 30- 40 employees. On the other hand it came over the record that the claimant used to assion duties to his subordinates, who were to perform their duties under his guidance and supervision. The amount of technical work he used to perform was ancillary to his chief duties of assuring quality control through his team of engineers, technical officers and technical assistants. The mere fact that he was required to have technical knowledge for maintenance of an aircraft does not make his work technical work. The work of advising, guiding and removing defects in the work of his subordinates nowhere bring his duties within the pale of technical work. Consequently, there is nothing on record to conclude that his main and substantial duties were technical work which clothe him with the status of a workman.

46. To sum up, principal and main duties of the claimant, as an Aircraft Maintenance Engineers, emerge as follows:

1.The general control and supervision over workers of the department.

2. Allocation and re-allocation of work to the workers.

3. Instructing the workers for issuance of a check A and check B and attending aircraft for pilots acceptance, preparation of reports relating to safety audit and internal audit, make out calls in advance for 200 hours and 500 hours schedule inspection of the aircrafts, upkeep service bulletin in respect of Donier 228 Aircraft, take care of average fuel consumption graph, engine trained monitoring soap analysis record and test record, issue flight sector report and maintenance schedule, maintenance record of delay, defects and incident and update aircraft status on board.

4. Guide the workers as to how the job was to be done and give them necessary directions.

5. Going round and to see how the jobs are being done by the engineers, technical officers and technical assistants,besides, other workers, inspect the progress made and ensure that repair/maintenance sheedules are adhered to by them.

6. Report on performance of the workers under him to superiors for necessary action.

7. Recommend/saction of leave to the workers.

8. Represent the Airlines befor Director Gerneral, Civil Aviation, Govt. of India and other institutions.

9. Take decisions for purchase of goods or for repair of tools and equipements.

10. Make suggestions to the Airlines regarding possible imporvement in upkeep and maintenance of aircrafts, tools and equipments.

47. On analysis of entire facts, it is concluded that in the duites of the claimant. there is a combination of supervisory duties of two types. An Aircraft Maintenance engineer actually supervises work of installation of engine, propeller inspection. contral of aircraft and field works, which is carried on by the engineers/techincians working under him and at the same time he has supervision on those engineers/technicians in the matter of giving directions, recommendation/sanction of leaves and allocation of work to them. Thus central concept of supervisory duties stood established in the case, since the claimant was responsible to take care of the duties of the employees working under him. Engineers, technical officer, technical assistants and other technicians were not to help him in doing his duties. As emerge out of Ex.MW1/9 technical staff of Quality Control Cell was to carry out their duites under his supervision. Therefore, nature of his duties and functions performed by the claimant make it clear that he was a supervisor. It is not a disputed proposition that the claimant was drawing much more wages than a sum of Rs.1600.00 per month. Consequently, it is crystal clear that the claimant was performing mainly managerial, administrative and supervisory duties. He falls within the ambit of clause (iii) and (iv) of the second limb of the definition of workman,as enacted under section 2(s) of the Act. These reasons persuade me to conclude that Shri Gupta was not a workman within the meaning of Section 2(s) of the Act. The issue is, therefore, answered in favour of the Airlines and against the claimant.

Issue No.3 & 4

48. The Tribunal is the creature of the Act, hence its jurisdiction is circumscribed by the Act. Its adjudication must, therefore be confined to the perimeter of the provisions of the Act. As per the scheme of the Act, the Tribunal has to determine the dispute referred to it. Section 10(4) of the Act permits the Tribunal to decide only disputes or points referred to it and matters incidental thereto. Thus, the Tribunal cannot go beyond the terms of reference. For articulation of an industrial dispute, its adjudication is to be confined only to :

(a) the points specified in the reference, and

(b) the matters incidental thereto.

49. The words 'incidental thereto' occurring in Section 10(4) of the Act do not have the same meaning as the words 'appearing to be connected with or relevant to" used by the legislature in clauses (b), (c) and (d) of Section 10(1) of the Act. The matters covered by the latter expression must be specifically referred for adjudication while the matter covered by former expression need not be specifically referred or they can be adjudicated upon as a part of the main dispute. For instance, on an industrial dispute being referred to it, the Tribunal has jurisdiction to determine whether on the facts placed before it, an 'industrial dispute' within the meaning of Section 2(k) has really arisen, or the concerned persons are 'workmen' as defined in Section 2(s) or a particular undertaking is an 'industry' within the meaning of Section of the Act or such industry is a live industry or a closed industry. Such questions can be validly examined and adjudicated upon by the Tribunal as matters incidental to the points of dispute, specified in the order of reference. Therefore, above questions raised by the Airlines, are adjudicated by the Tribunal being incidental to the points specified in the reference order.

50. Since the claimant does not fall within the ambit of the definition of 'workman', provisions of the Act are not applicable to him. Secondly, question relating to non- payment of his salary for the months of July August and November 1998 cannot be adjudicated being an individual dispute. The appropriate Government was not competent to form an opinion that an industrial dispute existed between the Airlines and the claimant. When making of reference is itself incompetent, reference order does not give jurisdiction to this Tribunal to entertain it for adjudication

51. Claimant cannot be accorded any relief by this Tribunal. The issues, referred above, do not qualify for adjudication. Consequently, this Tribunal refrains its hands from adjudication of the issues An award is passed in favour of the Airlines and against the claimant. It be sent to the appropriate Government for publication.

Dated: 14-01-2013

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 31 जनवरी, 2013

का.आ. 484 .— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 धनबाद के पंचाट (संदर्भ संख्या 75/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2013 को प्राप्त हुआ था ।

[सं. एल-12012/415/1999-आई आर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 31st January, 2013

S.O. 484 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/2001) of the Central Government Industrial Tribunal 2 No. Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workman, which was received by the Central Government on 31-1-2013.

[No. L-12012/415/1999-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, AT DHANBAD

Present. SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section (10) (d) of the I.D. Act., 1947.

Reference No. 75 OF 2001

Parties : Employer in relation to the management of State Bank of India , Daltanganj and their workman.

Appearances :

On behalf of the workman : Mr. D.K. Verma, the Ld.Adv.

On the behalf of the management : Mr. S.N. Goswami Ld. Adv.

State : Jharkhand Industry : Banking

Dated, Dhanbad, the 17th Dec, 2012.

AWARD

The Government of India Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act. 1947 has referred the following dispute to this Tribunal for adjudicaation vide thier Order No. L-12012/415/1999/IR(B-I) dt. 9-3-2001.

SCHEDULE

"Whether the action of the management of State Bank of India, Daltonganj in terminating the services of Shri Ashok Kumar w.e.f. 1-6-1997 who was engaged to supply water to Bank Staff is justified? If not, what relief is he entitled?"

2. Mr. D. K. Verma, the Learned Advocate for the workman is present, but workman Sri Ashok Kumar is absent as usual. Mr. Verma submits for the closure of the case of the workman, as the workman is uninterested in pursuing the case. Mr. S. N. Goswami the Ld. Advocate for the management is present.

After going through the case record, I find the case has been pending for the evidence of the workman since 9-6-2004, for which more than sufficient opportunities were given to his for his evidence, but the workman by his conduct factually seems uninterested in prusuing the case for final adjudication under these circumstances, the Reference Case of the workman related to an issue of termination of his serivce w.e. f. 1-6-1997 is closed, and accordingly it is passed as Award that the Industrial Dispute no longer exists.

KISHORI RAM, Presiding Officer

नई दिल्ली, 1 फरवरी, 2013

का.आ. 485 .— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इन्टरनेशनल एअरपोर्ट अथोरिटी आफ इंडिया दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम नयायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 200/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-1-2013 को प्राप्त हुआ था ।

[सं. एल-11011/4/2008-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st February, 2013

S.O. 485.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 200/2011) of the Central Government Industrial Tribunal No. 1, Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s International Airport Authority of India (Delhi) and their workman, which was received by the Central Government on 24-1-2013.

[No. L-11011/4/2008-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE DR. R.K. YADAV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DELHI

I.D.No.200/2011

The General Secretary,
Airport Authority Karamchari Union,
RZF-1/227, Gali No.2, ... Workman
Mahabir Enclave,
New Delhi - 110015.

Versus

The Chairman, ... Management
International Airport Authority of India,
IGI Airport, New Delhi.

AWARD

Airport Authority of India (in short the Authority) came into existence by way of merger of International Airports Authority of India and National Airports Authority, after enactment of the Airports Authority of India Act 1994 by the Parliament.

2. Employees working in maintenance and construction of runways, buildings and civil/electrical work were paid overtime wages under Factories Act. 1948 and the Minimum Wages Act, 1948 (in short the Act). Central Government has fixed minimum rates of wages, vide notification dated 14-10-1988, for employees employed in maintenance of buildings, construction and maintenance of roads or any building operations. Employees of the Authority, employed in civil and electrical maintenance, involving construction and maintenance of building and runways, were drawing overtime allowance under the Act and Minimum Wages (Central), Rules 1950 (in short the Rules). There were certain disputes and difference between the Authority and its employees, relating to payment of

overtime allowance. The Authority entered into a settlement with the majority Union and thereafter it issued circular on 17-01-1994 which details rates of payment of overtime allowance, relevant portion of which is extracted thus:

"The release of pay in the revised scale of pay under new wage agreement will be subject to adjustments if needed on final scrutiny and would be purely provisional and overtime payments from the month of December, 1993 onwards shall be regulated at that hourly rates restricted to what were applicable in respect of each employee in the month of December 1993. In other words till such time discussions are held with the unions to find ways and means to removing anomalies/disparity to the extent possible, overtime shall be paid at the rates at which they were earlier paid in the month of November 1993. The Authority entered into a settlement on 17-01-1995 with Airport Authority of India Workers' Union where efforts were made to reduce the overtime allowance available to the employee working in scheduled employments".

3. Aggrieved by the circular, a few employees filed a writ petition being C.W.P. No. 994 of 1994, wherein it was claimed that reduction of overtime allowance was illegal. During the pendency of the writ petition, settlement dated 17-1-95 was entered into between the majority union and the Authority. Copy of the said settlement was also placed before the High Court of Delhi. The High Court dismissed the writ petition vide its order dated 22-08-2005 with liberty to raise an industrial dispute challenging circular dated 17-01-1994 and settlement dated 17-01-1995. The Airport Authority Karamchari Union (in short the Union) raised a dispute before the Conciliation Officer in the year 2008. Since the Authority gave contest to its claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, appropriate Government referred the dispute for adjudication to Central Government Industrial Tribunal No. II, New Delhi, vide order No. L-11011/4/2008-IR(M), New Delhi dated 09-04-2009 with following terms:

"Whether the action of the management of Airport Authority of India in not providing overtime allowance at the rate of double the ordinary rate is just and fair? To what relief the union is entitled?"

4. Claim statement was filed by the Union pleading that it is a registered trade union and functions for welfare and interest of employees of the Authority. Shri Ghanshyam, General Secretary, has been authorized by the Union to file claim. Authority came into existence by way of merger of Internal Airports Authority of India and the National Airports Authority. As per provisions of Section 12(2)(e) of the Airport Authority of India Act, 1994, employees holding any office under Central Government at International Airports immediately before formation of National Airports Authority of India were treated on deputation from Civil Aviation Department and Central Public Works Department, who were subsequently absorbed in the service of National Airports Authority of India. Employees who were working as work charged staff with CPWD for maintenance and construction of runways and buildings as well as civil and electrical works, were absorbed with National Airport Authority of India with effect from 01-09-1997, on the same terms and conditions as contemplated to them by CPWD. Employees of CPWD were being paid overtime wages under Factory Act, 1948 and the Act. Same provisions of law were made applicable to them by the National Airport Authority of India. Employees recruited by the National Airport Authority of India, for maintenance and construction of runways and buildings and civil and electric work, were treated at par with the employees who were drawn from CPWD.

5. The Union pleads that the Act provides for fixation of minimum rates of wages in certain scheduled employments. Government has fixed minimum rates of wages for scheduled employments in maintenance of building, construction or maintenance of road or building operations, vide notification date 14-10-1988. Members of the Union are employed in scheduled employment viz. in civil and electrical maintenance, involving construction and maintenance of building and runways, maintenance and/or construction of civil aerodrome, which are main functions of the Authority. Members of the Union are entitled to double rate of wages for overtime work performed on rest days, in addition to substituted day of rest. Since there were disputes and differences between the Union and the authorities with regard to wages and the Authority wanted to reduce overtime allowance at any cost, it entered into a settlement with Airport Authority of India Workers Union. The said union had malafidely agreed to co-operate with the Authority to minimize overtime expenses. On 17-01-1994, the Authority issued a circular to reduce payment of overtime allowance. The said circular was challenged before the High Court of Delhi by way of a writ petition. During pendancy of the writ petition, the Authority entered into a settlement with Airport Authority of India Workers Union on 17-01-1995 which settlement reduced rates of overtime allowance to the members of the Union. Though the settlement was placed before the High Court, yet writ petition was dismissed on 22-08-2005. The Union projects that it assails circular 17-01-1994 and settlement dated 17-01-1995 being illegal, since they violate provisions of the Act. Rule 25 of the Rules provides that when a worker works for more than 9 hours in any day or for more than 48 hours in any week in scheduled employment, he shall be paid at double the ordinary rates of wages for overtime work. Provisions of Section 25 of the Act makes any contract or agreement void in so far it purports to reduce or relinquish right to minimum rates of wages or any privilege or any concessions applicable to an employee. Since the aforesaid circular and settlement override provisions of

the Act and the Rules hence are void. Settlement dated 17-01-1995 is not applicable and binding on members of the Union. The said settlement is also illegal and perverse, since order dated 09-03-1992 passed by the Authority under the Act was not taken into consideration. It has been claimed that the aforesaid circular and settlement may be declared illegal and members of the Union be held entitled for payment of overtime at double the ordinary rate of wages with retrospective effect.

6. Claim was demurred by the Authority pleading that the dispute raised qua circular 17-01-1994 and settlement dated 17-01-1995, entered into between the Authority and the recognised union, is not an industrial dispute. Members of the Union are governed by scales of pay, which scales of pay are better than those applicable to the employees of Government of India. Besides pay and overtime allowance, member of the Union are receiving perquisites such as food subsidy, transport subsidy, children education allowance, uniform and washing allowance etc. They are also paid for rest days whereas under the provisions of Schedule (4) of rule 23 of the Rules, no wages are payable if actual daily rate of wages are more than the notified minimum rates of wages. The Authority has control of five national airports at Delhi, Mumbai, Chennai, Kolkata and Thiruvananthapuram. National Airport Authority of India made its own rules and regulations relating to service conditions of its employees. It is not disputed that staff working with CPWD was absorbed in erstwhile National Airport Authority of India on 01-09-1977. They were paid wages and salary on IDA pattern and not minimum wages. Notification dated 14-10-1988, fixing minimum rates of wages, is not applicable to the employees of the Authority. The Authority primarily functions for efficient management of international airports. It works under the Government of India in a manner analogous to actions carried out by other departments. Claim of the Union that employees engaged in maintenance of buildings & runways are working in scheduled employments, is unfounded. Scheduled employments relating to maintenance of building & runways would imply to agencies engaged in whole time activity of maintenance of buildings. Agencies which are engaged in civil engineering activities of construction as well as maintenance of runways would fall within the ambit of the provisions of the Act. The Authority, though responsible for construction and maintenance of runways, yet awards work for actual construction and major maintenance to outside civil engineering companies and contractors and such companies and contractors would be bound by the provisions of the Act.

7. The Authority further pleads that multiplicity of unions are not encouraged by it. Accordingly, elections are held at regular intervals to elect majority union so as to discuss service issues relating to its employees with that union. Wage Negotiation Committee was constituted and wage settlement was signed, which was effective for a period of four years form 01-09-1989. As per the settlement, recognized union agreed to co-operate to minimise overtime expenses and other staff costs. It was also agreed that no arrears of overtime allowance shall be payable, for the period prior to the month of signing of the final agreement, after receipt of approval of Government of India. In memorandum of understanding, relating to final agreement of wage settlement entered into between the Authority and the recognized union for the period 1-1-1992 to 31-12-1996, it was agreed that the union would co-operate with the Authority in minimising overtime expenditure and other staff costs. Recognized union, while entering into an agreement relating to wage structure for the period 1-1-1997 to 31-12-2006, agreed for reduction of overtime expenses to the tune of 2%. It was also agreed that overtime allowance payment shall be restricted to operational staff and that too only for unavoidable circumstances. Deployment of non-operational staff on overtime assignment was to be done with prior approval of the Competent Authority. A committee, consisting of Officers from Engineering, Personnel and Operations Department, was constituted to go into the question of rationalisation of overtime allowance to the staff. The committee submitted its report on 17-02-1984.

8. The Authority highlights that wage settlement for the period with effect from 01-09-1989 was signed on 17-12-1993 between the Authority and the recognized union, namely, International Airports Authority of India Workers Union and International Airport Authority of India (Headquarters) Employees Union. Administrative order for implementation of that wage agreement was issued on 14-12-1993. It was decided that no arrears of overtime allowance, travelling allowance, dearness allowance and other allowances shall be payable for the period prior to the month of signing of the final settlement. The said settlement was equally applicable to staff irrespective of their posting in electrical & civil maintenance, motor transport, electronics, fire operations etc. To evolve uniform rate of overtime allowance, the Authority entered into a tripartite agreement during conciliation proceedings on 17-01-1995. Settlement decided uniform rates of overtime allowance to the employees in all cadres, viz. ministerial, operational, maintenance etc. Settlement dated 17-01-1994 was outcome of wage settlement signed on 13-12-1993. Provisions of Act are not applicable to the Authority. The Union cannot claim that the aforesaid circular, being executive order, seeks to over-ride provisions of the Act. The Authority is an organization engaged in work of providing services and facilities to national airports. Entire gamut of its activities are being controlled and carried out by sophisticated and modern equipments and, therefore, normal duty hours of the employees include large period of inaction during which they are on duty but not called upon either to display physical activity or to give sustained

performance. They remain in wait for any exigency or an emergency. Since provisions of the Act are not applicable to the Authority, hence it cannot be said that those provisions are contracted out. The Union cannot assail settlement arrived at during the course of settlement proceedings with the majority union. Since members of the Union are being paid in excess of notified minimum wages and are paid for rest days also, they are not covered by the Act. Claim put forward by the Union is liable to be dismissed, being devoid of merits, claims the Authority.

9. Vide order No.Z-2219/6/2007-IR(C-II), New Delhi dated 30-03-2011, case was transferred to this Tribunal for adjudication by the appropriate Government.

10. Shri Ghanshyam Singh entered the witness box to unfold facts on behalf of the Union. Shri Sushil Kumar, Senior Manager, testified facts on behalf of the Authority. No other witness was examined by either of the parties.

11. Arguments were heard at the bar. Shri K.K. Aggarwal, authorized representative, advanced argument on behalf of the Union. Ms.Sujata Kashyap, authorised representative, presented facts on behalf of the Authority. Parties filed their written submissions too. I have given my careful considerations to arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:—

12. Shri Ghanyshyam Singh swears in his affidavit Ex WW1/A, tendered as evidence, that the Authority recruited employees for maintenance and construction of runways and buildings and civil and electrical work. Overtime allowance was paid to those employees under the Factories Act, 1948 and the Act. Letter dated 29-11-78 which is Ex.WW1/3, makes it apparent that engineering staff deployed in electrical maintenance division, maintenance staff deployed in motor transpot workshop, maintenance staff engaged in electronics workshop, staff employed in construction and maintenance of buildings and runways were to be paid overtime wages under the Factories Act, 1948.

13. Wage settlement has been proved by him as EX.WW1/4. He unfolds that on 17-01-1994 a circular was issued by the Authority regulating payment of overtime allowance on hourly rate, restricted to rates applicable to the employees in November 1993. The said circular changes rates of overtime allowance in contravention to the Rules. The Authority entered into a settlement dated 17-01-1995, which is against the provisions of the Act. During course of his cross examination, he concedes that wages are paid by the Authority to its employees on industrial dearness allowance pattern . They are paid wages for weekly off days and gazetted holidays also. Earned leaves and casual leaves are also given to them. An employee can also encash half pay leaves at the time of his retirement. Medical bill reimbursement was available till 2009. He was also getting uniform allowance. Canteen subsidy, conveyance allowance and home loans as well as vehicle loan are available to them. LTC facilities are also available. He concedes that all facilities detailed in circulars Ex.WW1/4 and Ex.WW1/5 are given to them by the Authority.

14. Shri Sushil Kumar unfolds in his affidavit Ex.MW1/A, tendered as evidence, that the Union cannot challenge the settlement, arrived at during the course of conciliation proceedings, since it is binding on them. The Union is an unrecognised union and the settlement was entered into between the Authority and the recognized union. In the settlement, the recognized union has agreed to rationalise overtime rates of Wages. Circular dated 17-01-1994 was an outcome of the wage settlement signed on 13-12-1993 between the Authority and the recognized union. The Union cannot question the settlement as well as circular. He declares that the jobs, which the Authority carries out, do not fall within the scheduled employment, provided by the Act. During course of cross examination, he feigned ignorance that in December' 94, overtime wages were paid on two standards, viz. at single rate and double the ordinary rates of wages. He also feigned ignorance that the employees working in civil and electrical maintenance division were getting overtime allowance at double the ordinary wages.

15. Out of facts, unfolded by Shri Ghanshyam Singh and those detailed by Shri Sushil Kumar, it emerge over the record that the wage settlement was entered into between the Authority and the recognized union on 13-12-1993. In pursuance of the said wage settlement, circular dated 17-01-1994 was issued. In the said circular, it was provided that overtime payments from December 1993 were to be regulated at hourly rates, restricted to rates applicable for November, 1993. It creaps out that overtime allowance was to be paid at rates on which employees were paid for the month of November'93. This circular is assailed being violative of provisions of the Factories Act, 1948 and the Act. In 1995, the Authority and the recognized union entered into a settlement, during the course of conciliation proceedings, wherein it was settled that new rate of overtime allowance shall be effective from 01-01-1995. Rate of overtime allowance so settled, are detailed hereunder :

"A uniform rate of overtime will be applicable to all employees who are entitled to overtime allowance performing same/similar hours of work in a week irrespective of department or cadre, viz. ministerial, operational, maintenance etc. The mode of calculation of rates of overtime allowance shall be as under :

2.2.1 For those performing 48 hours of duty in a week

$$\frac{\text{Pay} + \text{FDA} + \text{VDA} \times 1.7}{208}$$

2.2.2 For those performing less than 48 hours duty in a week

$$\frac{\text{Pay + FDA + VDA x 1.5}}{208}$$

*Average number of hours performed per month worked out on the following basis:

$$\frac{\text{Weekly hours x number of weeks}}{\text{number of months}} = \frac{48 \times 52}{12} = 208$$

Common denominator has been retained in the above two cases since those doing lesser working hours in a week could not be placed in an advantageous position than those rendering higher number of working hours in a week.

2.2.3 Overtime allowance is payable for the duty performed beyond prescribed hours of duty.

2.2.4 The maximum rate of overtime allowance shall be restricted at Rs.45.00 per hour even if the amount calculated under para 2.2 (2.2.1 and 2.2.2) above exceeds this limit."

16. The Union challenged circular as well as settlement referred above, being violative of the provisions of the Factories Act, 1948 and the Act. As conceded by Shri Ghanshyam Singh, members of the Union are being paid wages as per wage structure based on industrial dearness allowance pattern since 1977. Members of the Union never raised an eyebrow when they were paid their wages on industrial dearness allowance pattern since September 1977. They are being paid for weekly off days, gazetted holidays, earned leaves and casual leaves. They can encash their earned leaves as well as half pay leaves at the time of their superannuation. Medical reimbursement facilities, uniform allowance, canteen subsidy, conveyance allowance, home loans and conveyance loans are also available to them. LTC facility or a sum of Rs.900.00 per month in lieu thereof is given to them. All facilities detailed in circular Ex.WW1/4 and Ex.WW1/5 are being accorded to the members of the Union.

17. Question for consideration is as to whether provisions of the Act are applicable to the staff deployed in electrical and civil maintenance, motor transport, electronics, fire operations and maintenance of buildings and runways, since works in these units are notified to be scheduled employment under the Act. Admittedly, members of the union are getting wages under pay structure settled between the Authority and recognized union. They are getting pay under industrial dearness allowance pattern. Wages for weekly off days, encashment of earned leave, casual leave, gazetted holidays, encashment of half pay leaves at the time of superannuation, canteen subsidy, uniform allowance, medical reimbursement facility, home loan and transport vehicle loan are also available to them. Therefore, it is evident that not only pay under a wage structure is given to the members of the union but they get all facilities and privileges applicable to the Government servants. In such a situation, question would be as to whether member of the union are entitled to overtime allowance under the provisions of the Act, in view of provisions of Section 14 of the said Act. Such a proposition came up for consideration before the Apex Court in Municipal Corporation, Hatta [1998 (79) FLR 228]. The Apex Court took note of the provisions of Section 14 of the Act and ruled that to claim overtime under section 14, followings conditions must be fulfilled by an employee:

(1) the minimum rate of wages should be fixed under the minimum Wages Act, 1948; and

(2) such an employee should work on any day in excess of the number of hours, constituting a normal working day.

The Court ruled that overtime under section 14 is payable to those employees who are getting a minimum rate of wage, as prescribed under the Minimum Wages Act, 1948. These are the only employees to whom overtime under section 14 would become payable. The Apex Court announced that in the present case the respondents cannot be described as employees who are getting minimum rate of wages fixed under the Minimum Wages Act, 1948. They are getting much more and that too under the Madhya Pradesh Municipal Service (Scales of Pay and Allowances) Rules, 1967 Resultantly Section 14 has no application to them.

18. The Apex Court also took note of the proposition that the employment of the respondents was under "any local authority", listed as item 6 in the Schedule to the Minimum Wages Act, 1948, according to which they are entitled and automatically get overtime under section 14 of the said Act. Considering that proposition, the Court ruled that the employees who are getting minimum rates of wages under the Minimum Wages Act, 1948 are only eligible to get over time allowance under section 14 of the said Act. Observations made by the Apex Court in that regard are extracted thus:

"The application under section 22 of the Minimum Wages Act, is, therefore, misconceived. The respondents seem to have proceeded on the basis that because employment under any Local Authority is listed as Item 6 in the Schedule to the Minimum Wages Act, 1948 they would automatically get overtime under the said Act. Section 14, however, clearly provides for payment of overtime only to those employees who are getting minimum rate of wage under the Minimum Wages Act, 1948. It does not apply to those getting better wages under other statutory Rules."

19. The Union had placed reliance on the precedent in Y.A. Mamade [1972 (25) FLR 186] wherein the Apex Court had dealt with provisions of rule 25 of the Rules and declared that the expression 'ordinary rate of wages' used

in that rule reflects what a workman has actually received rather than worker's minimum entitlement under the Act. By using the phrase "double the ordinary rate of wages" the rule-making authority seems to us to have intended that the worker should be the recipient of double remuneration which he, in fact, ordinarily receives and not double the rate of minimum wages fixed for him under the Act. It has been commanded by the Apex Court that rule 25 of the Rules contemplates for overtime payment at double the rate of wages which the worker actually receives, including the casual perquisites and other advantages mentioned in the explanation. This rate is intended to be the minimum rate for wages for overtime work. It was concluded therein that the minimum rates of wages for overtime work need not as a matter of law be confined to double the minimum wages fixed but may justly be fixed at double the wages ordinarily received by that workman as a fact.

20. Whether there is any conflict in law laid in precedent in YA Mamarde (supra) and Municipal Council, Hatta (supra)? When these two precedents are scanned, it emerges that in YA Mamarde (supra), the Apex Court only interpreted rule 25 of the Rules and did not deal with provisions of Section 14 of the Act. On the other hand, precedent in Municipal Council Hatta, the Apex Court interpreted the provisions of section 14 of the Minimum Wages Act, 1948. Consequently, it is clear that there is no conflict in the above two judgements handed down by the Apex Court. In Sushil Kumar, (LPA No.13 of 2003 decided on 03-12-2003) High Court of Delhi was confronted with such a proposition when parties raised an issue to the effect that there was conflict in law laid in the two precedents handed down by the Apex Court. On consideration of the ratio laid down in the two precedents, the High Court ruled that there was no conflict in the two judgements since they operated in different areas. Hence law laid in Municipal Council, Hatta (supra) would be applicable to the case, since it has four dimensional application to the facts.

21. In National Airport Authority [2010 (127) FLR 111], Single Judge of the High Court was to consider the proposition whether 74 workers drawing more than the notified minimum wages and enjoying other amenities and conditions of employment better than those provided under the Act and Rule's were entitled to payment of overtime rates in accordance with the provisions of rule 25 of the Rules. Relying the precedent in Municipal Council, Hatta (supra), High Court ruled that an employee even if in scheduled employment but drawing more than minimum wages and enjoying better terms of employment than under the Act and Rules, is not entitled to overtime at double the rate as provided under the Rule. Law laid down by the High Court is reproduced thus:

"I may however state my reasons for preferring the view in Municipal Council, Hatta, of the employee even if in scheduled employment but drawing more than minimum wages and enjoying better terms of employment than under the Act and the Rules, being not entitled to overtime at double the rate as provided in the Rules. The Minimum Wages Act, 1948 was only intended to secure minimum wages and certain other conditions in scheduled employment. It was not intended to and/or is not a legislation to otherwise govern the contract of employment between an employer and an employee drawing more than the minimum wages, even in scheduled employment. If an employee in a scheduled employment is drawing more than the notified minimum wages and enjoying amenities, facilities and conditions of employment better than those provided under the Act and the Rules, then holding the provisions of the Act to be still applicable to the employee would tantamount to the legislature interfering in terms of employment in the scheduled industry rather than securing minimum wages and related conditions of employment in such employment. The Supreme Court in Beed District Central Co-operative Bank Ltd. Vs. State of Maharashtra [2006 (8) SCC 514] held that even while interpreting a beneficent statute (in that case the Payment of Gratuity Act) either a contract has to be given effect to or the statute. It was held that the Gratuity Act under consideration in that case, did not contemplate that the workmen would be at liberty to opt for better terms of the contract while keeping the option open in respect of a part of the statute; he has to opt for either of them and not the best of the terms of statute as well as those of the W.P.(C) No.2146/1992 Page 9 of 11 contract and that he cannot have both. A reading of the Minimum Wages Act, 1948 also shows that its scheme is to ensure fixing of hours of work and minimum wages there-for. It also does not envisage interference with the terms of employment even in scheduled establishments where workmen/employees are enjoying wages more than the minimum and working hours/conditions better than those prescribed in the Act. Section 14 of the Act provides for work over and above the time for which the workman is to work in lieu of minimum wages. If the workman is working for lesser hours than those for which he is required to work to earn the minimum wage, then the computation of overtime as done in the Rules on the said premise cannot be made applicable to him.

22. As projected above, Shri Ghanshyam Singh concedes that the members of the Union are getting wages and amenities better than those fixed under the provisions of the Act. When above law is applied to the facts, it is to be concluded that member of the Union cannot claim over time allowance in consonance with rule 25 of the Rules. Their contention to the effect that precedent in Manmarde (supra) rules the field, is discarded.

23. The Union projects that settlement dated 17-01-1995 was entered into between the Authority and the recognised Union, which contracts out provisions of Section 25 of the Act. It is agitated that the said settlement

is to be discarded since it is violative of the law. Ms.Sujata Kashyap dispels submissions made by Shri Aggarwal in that regard. For an answer to the proposition raised, it is expedient to have a glance on provisions of Section 25 of the Act, which are extracted thus:

"25. Contracting out - Any contract or agreement, whether made before or after the commencement of this Act, whereby an employee either relinquishes or reduces his right to a minimum rate of wages or any privilege or concession accruing to him under this Act shall be null and void in so far as it purports to reduce the minimum rate of wages fixed under this Act."

24. Provisions of Section 25 of the Act were construed in Andhra Pradesh State Handloom Weaver Co-operative Society case (1985 Lab.I.C. 767). The High Court ruled therein that provisions of Section 25 of the Act make it clear that an agreement cannot be a bar to determine correct minimum wage under the Act. Law laid down by the High Court is extracted thus:

"...it is true that the provisions contained in Section 25 of the Act make it clear that agreement cannot be a bar to determine correct minimum wage under the Act. The question here is not one of bar under Section 25 of the Act. Question is whether agreement dated 29-09-1966 was ------ to the bar for entertaining the claim. It is not contended at any stage that the agreement over rides minimum wage prescribed by the government orders since the workman candidly admitted that wages paid to them by the petitioner is not less than the minimum wages prescribed by the Act. That being so, question of bar and relinquishment for the purpose of Section 25 of the Act does not, in my opinion, arise".

25. In the aforesaid case, Government of Andhra Pradesh prescribed minimum wages for the scheduled employment relevant to the controversy therein, vide orders dated 16-06-1976 and 05-02-1976. Minimum wages prescribed by the Government were prejudicial to the workmen because they were being paid more than minimum wages except for weft and therefore workmen and the employer approached Government and with its assistance, an agreement was arrived at between the employer and the workman fixing rates of wages which were not less than minimum wages except for weft and overall payment to the workmen was more than minimum wage. While considering the case, High Court ruled that the agreement did not override the Government orders prescribing the minimum wages under the Act. Hence it was concluded therein that section 25 of the Act would not operate as a bar for considering and giving effect to the agreement and simply because wages for Weft under the agreement fell short of the minimum wages prescribed by the Government orders, overall wages paid by the employer in accordance with the agreement cannot be discarded under Section 25 of the Act.

26. Here in the case too, it is an admitted proposition that members of the Union were being paid wages under industrial dearness allowance pattern, which were higher than the minimum wages prescribed under the scheduled employment in which they work. They also get other facilities like reimbursement of medical bills, uniform allowance, canteen subsidy, conveyance allowance, home loans, conveyance loans LTC facility or a sum of Rs.900.00 per month in lieu thereof. Consequently, it emerged over the record that the settlement on the strength of which wages higher than minimum wages were prescribed, does not override minimum wages. It cannot be said that the said settlement is violative of the provisions of Section 25 of the Act. Contention advanced by Shri Aggarwal is discarded on that count too.

27. Admittedly, settlement dated 17-01-95 was arrived at during the course of conciliation proceedings. It was signed by the Authority and the recognised union. Whether the said settlement is binding on the members of the Union? Answer can be traced out of the provisions of Section 18(3) of the Industrial Disputes Act, 1947, which provisions stipulate that a settlement arrived at in the course of conciliation proceedings, which has become enforceable, shall be binding on all the parties specified in clauses (a), (b), (c) and (d) of the said sub-section. When a settlement is arrived at under Section 18(3) of the Industrial Disputes Act, 1947, it will be binding on all the workmen of the establishment. If that be so, what is the effect of a settlement unions entered into by the management with one of the union representing the majority of the workmen employed by the management and concerned in the dispute? Would that settlement bind the other union and workmen of the establishment? When an establishment has more than one Union and there is trade union rivalry, possibility of those unions entering in to negotiation in respect of certain demands cannot be ruled out. It also happens that negotiations with one union in the course of conciliation proceedings may succeeded and end in a settlement. While answering the question as to whether the settlement would bind the workman of other union, the Apex Court held in Ramnagar Cane and Suger Co. Ltd. [1961 (1) LLJ 244] that such a settlement will bind the workmen of other union. Such a question came up for consideration in Buckingam and Carnatic Co. [1964 (1) LLJ 253] before Madras High Court. The point for consideration in that case was whether the employees union, the petitioner in that case, was competent to raise an industrial dispute in respect of a matter which was settled by a conciliation settlement by the management with another union recognized by the management. After referring to the decision of the Apex Court in Ramnagar Cane and Sugar Co. Ltd. (supra) the High Court came to the conclusion that it was open to the management to enter into a settlement with the Union representing the majority of workmen and that such a settlement will bind the other union as well as

other workmen who were in employment or subsequently came in employment in the establishment.

28. A settlement arrived at otherwise than in the course of conciliation proceedings between the management and the Union stand or different footing than the settlement arrived at during the course of conciliation proceedings. For an example, if an industrial establishment has two union, say "A" and "B", an agreement otherwise than in the course of conciliation proceedings between the management and workers of Union "A" will be binding on the management and workers of Union "A" only. But a settlement "arrived at in the course of conciliation proceedings" will be binding on all the members of the other union who were not parties to the agreement as well as by virtue of Section 18(3)(d) of the Industrial Disputes Act, 1947. See Britannia Biscuit Co. Ltd. Employees Union [1984 (1) LLJ 349].

29. Applying above law it is concluded that the settlement dated 17-1-95 binds the members of the Union as well. The Union cannot question the settlement. In view of the forgoing reasons, claim put forward by the Union cannot be allowed. There is no substance in the proposition that overtime allowance should be granted to the members of Union in pursuance of the provisions of Section 14 of the Act. Consequently, claim is brushed aside. An award is passed in favour of the Authority and against the Union. It be sent to the appropriate Government for publication.

Dated: 7-12-2012

Dr. R. K. Yadav, Presiding Officer

नई दिल्ली, 1 फरवरी, 2013

का.आ. 486 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स प्रताप स्वाईन एण्ड ऐसोसिएट ठेकेदार एच. पी. सी. एल., उड़ीसा के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 60/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-1-2013 को प्राप्त हुआ था।

[सं. एल-30012/6/2012-आई आर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 1st February, 2013

S.O. 486 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 60/2012) of the Central Government Industrial Tribunal cum-Labour Court Bhubaneswar now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Pratap Swain & Associates, Contractor of HPCL (Orissa) and their workman, which was received by the Central Government on 24-1-2013.

[No. L-30012/6/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR, COURT, BHUBANESWAR

Present:

Shri J. Srivastava,
Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 60/2012

Date of Passing Order - 15th January, 2013

Between:

M/s. Pratap Swain & Associates,
Contractor of HPCL Bottling Plant, Jatni,
Dist. Khurda, Orissa. ...1st Party-Management

And

The Secretary,
IOC & HPCL Drivers & Employees Union, At. Chhanaganaghar,
P.O. Kusumati, Via: Jatni,
Dist. Khurda, Orissa. .....2nd Party-Union

Appearances:

None ... For the 1st Party- Management.
None ... For the 2nd Party- Union.

ORDER

Case taken up today. Both the parties are absent. The 2nd Party-Union has still not filed statement of claim despite sending notice through registered post on 7-11-2012. Earlier to it while sending copy of the order of reference to the 2nd Party-Union the Under Secretary to the Government of India in the Ministry of Labour has directed the parties raising the dispute to file the statement of claim complete with relevant documents and list of reliance and witnesses with the Tribunal within fifteen days of the receipt of the order of reference, but ignoring that order and notice sent by this Tribunal the 2nd Party-Union has failed to file any statement of claim even after lapse of a period of more than six months from the date of receipt of the reference in this Tribunal. It would therefore, be a wanton effort to keep the case pending indefinitely without any purpose. It might be that the parties have settled their dispute amicably out of the court or the Union might not be interested to proceed further with the case. Therefore no useful purpose would be served in keeping the case pending any longer. The reference is liable to be returned to the Government of India, Ministry of Labour with no dispute award.

Accordingly no dispute award is passed.

J. SRIVASTAVA, Presiding Officer

नई दिल्ली, 1 फरवरी, 2013

का.आ. 487 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स यूनियन बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-1, मुम्बई के पंचाट (संदर्भ संख्या सीजीआई टी-1/20 आफ/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-12011/09/2011-आई आर (बी-II)]
शीश राम, अनुभाग अधिकारी

New Delhi, the 1st February, 2013

S.O. 487 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-1/20 of 2011) of the Central Government Industrial Tribunal/Labour Court-1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 24-01-2013.

[No. L-12011/09/2011-IR (B-II)]
SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

Justice G. S. SARRAF, Presiding Officer

Reference No. CGIT-1/20 of 2011

Parties : Employers in relation to the management of Union Bank of India.

And

Their Workmen

Appearances :

For the Management	:	Mrs. P.S. Shetty, Adv.
For the Union	:	Mr. Anil Kumar Menon, Adv.
State	:	Maharashtra :

Mumbai, dated the 11th day of January, 2013.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 the Central Government has referred the following dispute for adjudication to this Tribunal.

Whether the recruitment of personal drivers of executive of the bank as 'Peons' legal? What benefit the part-time sweepers are entitled to?

According to the statement of claim the alleged absorption of drivers as peons by the Bank is illegal for the following reasons : (a) drivers were not the employees of the Bank (b) There were no vacancies available for absorption (c) Part time sweeper who in fact were the regular employees of the Bank were entitled for preference. (d) The Bank overlooked the claim of the part time sweepers for absorption with a view to favour personal drivers of its executives. (e) The vacancies were not notified to the employment exchange. Thus the act of the management in appointing personal drivers of the executives as permanent peons of the Bank pursuant to the decision dt. 30-8-2008 is arbitrary, unauthorized, unjustified and illegal. If recruitment of personal drivers as peons is held illegal then the part time sweepers got the benefit of full employment w.e.f. 30-8-2008 and not 1-4-2012 on which date the part time sweepers were appointed as full time peons.

According to the written statement the Bank is providing cars to its executives. These executives are not provided with drivers but are allowed to engage persons of their choice as their personal drivers. The respective executive pays the salary to the personal driver engaged by him and subject to the ceiling the bank reimburses the same to the executive. Such personal drivers of the executives repeatedly requested to absorb them in regular service of the Bank. In view of this, absorption of personal drivers in the regular service was considered and a Memorandum dated 23-8-2008 came to be addressed to Board and the matter came to be placed before the Board of Directors of the Bank vide Agenda item no. 36 on 30-8-2008. The proposal was considered by the Board of Directors on the same day and after the receipt of approval of the proposal personal drivers came to be absorbed by the Bank in a phased manner. There were vacancies for the post of peons and since these personal drivers fulfilled the criteria stipulated for the said posts they were absorbed as per the requirement of the Bank. The recruitment process followed by the Bank was valid and there was no back door entry. Personal drivers of the executives worked for several years continuously prior to their absorption in the regular service of the Bank and only after approval by the Board of Directors they were absorbed. Hence action of the Bank is perfectly legal and authorised. A Settlement dated 1-4-2011 to convert part time sweepers into full time sweepers was arrived at after discussions and negotiations with the All India Union Bank Employees Association. The Bank has denied that the part time sweepers are entitled to the benefit of full time employment with effect from 30-8-2008.

The Union Bank Karmachari Sena has filed affidavit of its Secretary Rajesh Matkari who has been cross examined by learned counsel for the Bank and the Bank has filed affidavit of Mrs.Padma Neelakanthan, Chief Manager (P) who has been cross examined by learned counsel for the Union Bank Karmachari Sena.

Heard Mr. Anil Kumar Menon, on behalf of Union, Bank Karmachari Sena and Mrs. P.S. Shetty, on behalf of the Bank.

The schedule contains the following two issues:

(1) Whether the recruitment of personal drivers of executives of the Bank as peons is legal?

(2) What benefit the part time sweepers are entitled to?

As regards issue no. 1 learned counsel for Union Bank Karmachari Sena has not been able to show as to which statutory rule has been flouted or violated. It is also ridiculous to suggest that personal drivers could be appointed or absorbed as drivers only and not as peons because there is no rule which requires that a person to be appointed as a peon should not know driving. Personal drivers have been appointed or absorbed as peons in pursuance of the approval given by the Board of Directors of the Bank. There is no allegation of discriminatory or unfair practice by the Bank. There is nothing on the record to render illegal the recruitment of personal drivers of executives as peons.

This reference has been made on 13-6-2011 whereas part time sweepers were made full time peons w.e.f. 1-4-2011 as such there was no part time sweeper on 13-6-2011. Moreover Union Bank Karmachari Sena witness Rajesh Matkari who is General Secretary of the Sena has admitted in his cross-examination that the issue of part time and full time sweepers to be made permanent was raised by them in 2010 only. In such a situation how the part time sweepers now can claim the full time permanent employment benefits from 30-8-2008. Apart from this the part time sweepers were given the benefit of full time employment w.e.f. 1-4-2011 in pursuance to the Settlement dt.25-3-2011 arrived at and signed by the Bank and the All India Union Bank Employees Association. How the issue can be agitated at this stage against the mandate of the Settlement? For these reasons the part time sweepers are not entitled to any benefits.

It is, therefore, held that the recruitment of personal drivers of executives of the Bank as peons cannot be said to be illegal and the part time sweepers are not entitled to any benefit.

Award is passed accordingly.

JUSTICE G. S. SARRAF, Presiding Officer

नई दिल्ली, 1 फरवरी, 2013

का.आ. 488 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चेन्नई पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 74/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-33012/01/2011-आई आर (बी-II)]
शीश राम, अनुभाग अधिकारी

New Delhi, the 1st February, 2013

S.O. 488 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D.74 2012) of the Central Government Industrial Tribunal Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chennai Port Trust and their workman, which was received by the Central Government on 24-01-2013.

[No. L-33012/01/2011-IR (B-II)]
SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 17th January, 2013

Present :

A.N. JANARDANAN, Presiding Officer

INDUSTRIAL DISPUTE No. 74/2012

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Chennai Port Trust and their Workmen]

Between:

Smt. M. Kasturi .... 1st Party/Petitioner

Vs.

The Chairman
Chennai Port Trust
Rajaji Salai,
Chennai-600001 ....2nd Party/Respondent

Appearance :

For the 1st Party/ Petitioner .... Sri A. Meenakshi Sundaram, Advocate

For the 2nd Party/ Management .... Sri M.R. Dharanichander, Advocate

AWARD

The Central Government, Ministry of Labour vide its Order No. L-33012/1/2011-IR(B-II) dated 18-09-2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Chennai Port Trust, Chennai in dismissing Smt. M. Kasturi, Ex-Peon from service 22-03-2006 is legal and justified? What extent the workman is entitled to relief ?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 74/2012 and issued notices to both sides. First party entered appearance and filed Claim Statement. Second party entered appearance through

counsel and thereafter remained absent in spite of several adjournments given and is therefore eventually called absent and set ex-parte.

3. The contentions raised in the Claim Statement briefly read as follows:

The petitioner, a permanent attender/peon in the Respondent's office was used to be called by her superior one Mr. Murthy, Dy. Manager (Accounts) to his residence and while so she was being misbehaved by him resulting in her refusal to attend his home duty thereafter. Thereupon he started harassing her. She suffered very much mentally. She fell ill and suffered Osteoarthritis with bi-functional uterine bleedings with depression. Her leave application was not considered. She has been victimized for no wrong. Without enquiry or giving opportunity she was dismissed. No enquiry report was furnished to her. Punishment is disproportionate to the misconduct. It was without a Show-Cause Notice. She was ultimately dismissed on 22-03-2006. Her numerous representations bore no fruit. Chairman once assured to consider her reinstatement. Representation was rejected as an appeal without rejecting the Medical Certificate. She was on medical leave. She was not allowed to rejoin duty. Leave was neither approved nor rejected. Principles of natural justice were not followed as in Article-311 of the Constitution. No communication 'regarding enquiry was received by her. To facilitate ex-parte dismissal from service postal official may have avoided service of communications to her. Prior to dismissal order she has not received any communication which if received she would have had opportunity to participate in the enquiry to defend. Action is unilateral, arbitrary, vindictive and violative of nature justice. She is put to irreparable loss and hardship together with her dependents. Her medical records would reveal her ill-health. Hence setting aside—the dismissal order petitioner may be reinstated with continuity of service, backwages and all other attendant benefits.

4. The Respondent being absent and is set ex-parte, no counter Statement is put on record.

5. Points for consideration are:

(i) Whether the dismissal of the petitioner by the management is legal and justified?

(ii) To what relief the concerned workman are entitled?

6. On behalf of the workman, WW 1 was examined by way of Proof Affidavit and Ex.W1 to Ex.W17 have been marked.

Points (i) and (ii)

7. The uncontroverted pleadings supported by the evidence let in by WW1, the workman espousing has cause standing dismissed by the Respondent shows that the action of the Respondent/Management is not justified or legal. The Respondent by shunning this Tribunal has not put forth what its justification is against its action in regard to the impugned dismissal against what is held out to be illegal and prejudicial in manifold ways to the workman. The workman whose cause is espoused by herself appears to be seriously prejudiced by the act of the Respondent which is assailed as illegal and violative of principles of natural justice, constitution, vindictive, arbitrary, in legal victimization and against the rules and procedures in vogue. Therefore, there is no reason why action of the Management is not to be set aside. The petitioner as WW1 has sworn to her case in terms of her pleadings which do not stand rebutted by the Respondent by way of any rebuttal pleadings by filing a Counter Statement with documents. Her testimony does not stand shaken by any cross-examination by the opposite party who is at default to appear and defend her case. Though Respondent entered appearance through an Advocate filing a vakalat initially, thereafter consecutively and consistently remained absent or unrepresented leading it to be set ex-parte. Needless to say as against the case of the petitioner a contra case on behalf of the Respondent is wanting. The evidence of the petitioner as WW1 remaining unchallenged, it is only to be relied on as acceptable piece of evidence to sustain the claim of the petitioner in the absence of anything inherently improbable and intrinsically infirm in the whole of the evidence.

8. Reliance was placed on behalf of the petitioner to a decision of the Apex Court in ENGINEERING LAGOO UDYOG EMPLOYEES UNION VS. JUDGE, LABOUR COURT AND INDUSTRIAL TRIBUNAL AND ANOTHER (2003-12-SCC-1) wherein it held "F. Labour Law—Domestic enquiry— Natural justice — No enquiry/Defective enquiry — Held, there is no difference between no enquiry and a defective enquiry.

9. In the result it is held. that the dismissal order is not legal and justified and the Respondent is directed to annul the dismissal order and reinstate the petitioner with continuity of service and all other attendant benefits including 50% backwages from the date of her dismissal.

10. The petitioner is therefore entitled to relief as above and the reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th January, 2013)

A. N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : WW1, Smt. M. Kasthuri

For the 2nd Party/Management : None

Documents Marked :

From the Petitioner's side

Ex.No.	Date	Description
Ex.W1	13-01-1990	Call Letter

537 GI/13-27

Ex. No.	Date	Description
Ex.W2	—	Identity Card issued by CPT
Ex.W3	—	Salary Slip
Ex.W4	—	Representation
Ex.W4(A)	—	Medical Certificate
Ex.W5	—	Acknowledgement Cards Series
Ex.W6	22-03-2006	Order of Dismissal
Ex.W7	30-06-2006	Order on leave application
Ex.W8	27-10-2010	Appeal Petition
Ex.W9	27-12-2010	Dispute raised before AC (Labour)
Ex.W10	18-04-2011	Reply counter by CPT before AC(Labour)
Ex. W11	16-06-2011	Enquiry letter in appeal
Ex.W12	26-07-2011	Order in Appeal
Ex.W13	20-10-2011	Failure Report
Ex.W14	26-10-2012	Letter addressed to RLC (Central) with returned cover
Ex.W15	—	Representation
Ex.W16	19-11-2012	Reply by CPT
Ex.W17	—	Reference

From the Management's side

Ex. No.	Date	Description
	N/A	

नई दिल्ली, 1 फरवरी, 2013

का.आ. 489 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 36/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-1-2013 को प्राप्त हुआ था ।

[सं. एल-12012/52/2006-आई आर (बी-II)]
शीश राम, अनुभाग अधिकारी

New Delhi, the 1st February, 2013

S.O. 489 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2006) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CANARA BANK and their workman, which was received by the Central Government on 24-01-2013.

[No. L-12012/52/2006-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 9th January, 2013

Present : Shri S. N. NAVALGUND, Presiding Officer

C. R. No. 36/2006

I Party	II Party
Shri M Sadananda Shenoy, No. 14, 3rd Cross, Vannarapet Layout, Viveknagar, Bangalore-560 047.	The General Manager (P), Canara Bank, Head Office, Personnel Wing, 112, J.C. Road, Bangalore-560 002.

Appearances

I Party : Shri M. Eswar Rao Advocate

II Party : Shri T. R. K. Prasad Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of sub-section (1) of sub-section (2A) of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/52/2006-IR (B-II) dated 13-09-2006 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Canara Bank in terminating employment in respect of Shri M. Sadananda Shenoy, NND Agent, Shivajinagar and infantry Branches of Canara Bank, Bangalore w.e.f. July, 2004 is legal and justified? If not, to what relief the workman is entitled and from which date?"

2. On receipt of the reference registering it in C R 36/2006 when the notices were issued to both the sides, they entered their appearance through their respective advocates and I Party claim statement was filed on 01-12-2006 and counter statement of the II party on 17-05-2007.

3. The I party in his claim statement claims that he was appointed as an agent to collect daily deposits under its NND/BKD/NNND schemes in the year 1972 at II Party's Shivajinagar Branch which subsequently came to be merged with its Infantry Road Branch and since then for over a period of 27 years he rendered sincerely useful service to the II Party Bank and all of a sudden in the month of November 1998 the then Chief Manager of the Bank orally instructed him to stop collecting deposits as he is awaiting clarifications from Circle Office with regard to the collection of maximum amount per day from a NNND Depositor and in that regard his request to give a written orders was not responded to and thereafter whenever he

used to approach the Chief Manager, Infantry Road Branch to enquire about the clarification from Circle Office he used to say that on receipt of the clarification he will be informed. He has further stated that he gave representation to the Chief Manager, Canara Bank, Infantry Road, on 02-01-1999, 03-05-1999, 20-09-1999, 14-01-2000, 21-06-2000 and 12-12-2000 and that on 16-09-1997 the Chief Manager, Canara Bank, Infantry Road Branch addressed a letter bearing MS: CO : DEP : 621 : 97 to Deputy General Manager, Circle Office, Bangalore seeking permission to continue the scheme and then to his representation dated 22-02-2001 he received a reply on 07-03-2003 the matter has been referred to Circle Office and Circle Office in turn has taken up the matter with Head Office and he has to bear with them till then. Thereafter the Chairman and Managing Director, Canara Bank, Head Office, Bangalore released circular No. 67/2004 dated 29-03-2004 stating that under the New Nitya Nidhi Scheme Deposit maximum amount per day to per account has been enhanced from ₹100.00 to ₹ 500.00 and inspite of this from Head Office, the Chief Manager, Canara Bank, Infantry Road Branch did not permit him to collect the deposits and there after without any intimation or holding enquiry unilaterally made a publication in Sajevani Daily newspaper dated 20-07-2004 his services as an Agent being discharged due to this action the II Party has snatched his Bread and through his family to the streets illegally. He has further stated he has been deprived of the fall backwages, conveyance allowance and other benefits payable to him as per the orders of the Division Bench of High Court of Andhra Pradesh in W P No. 9783/1989 and of Hon'ble Supreme Court of India in Civil Appeal No. 3355/1998 as such he constrained to raise this dispute.

4. In the counter statement filed for the II party under the signature of DGM, Canara Bank, Bangalore, it is contended the I party was being allotted agency to collect deposits under Jana Priya and Nitya Nidhi Deposits Schemes on commission basis subject to certain terms and conditions enumerated in the agreement entered into by him, there is no employer and employee relationship between the I party and II party bank and the actual relationship between the I party and the II party being that of agent and principal the I party cannot be considered to be a workman as defined under section 2 (s) of I D Act as such the reference is liable to be rejected. Further it is contended without prejudice to its above contentions the deposit collectors being not regular employees of the second party bank the provisions of I D act or section 25F of the Act are not applicable as such they cannot raise any industrial dispute about their non-employment either under section 2K or 2A of ID act. It is also contended that the II Party having stopped and discontinued the NNND deposit collecting schemes as a matter of policy the I party is not entitle to any reliefs claimed by him. It is also contended the engagement of the I party was being for a limited period upon expiry of the said period his agency has come to an end section 2(oo)(bb) of I D Act are attracted as such on that count also he is not entitled for any claim. Further on facts it is contended the I party unilaterally, abruptly, voluntarily stopped his agency work since 1997 and not on the oral instructions of the Chief Manager of the Infantry Road Branch as alleged in his claim statement and that he has created such a story to somehow support his claim made in this reference with an ulterior motive and this fact is supported by his own letter dated 22-02-2001 addressed to the Chief Manager, Canara Bank, Infantry Road Branch and only when the Bank raised the maximum limit of a deposit per day to ₹ 500.00 he came up with a request to permit him to continue the agency and as the same was not entertained he created a story that orally he was instructed to stop the collection in the month of November 1997 with an ulterior motive to make wrongful gain and to take the advantage of the decision of the Hyderabad Industrial Tribunal upheld by the Andhra Pradesh High Court and Hon'ble Supreme Court referred to by him in his claim statement. Thus, it is contended the I party who on his own abandoned the agency in the year 1997 with an ulterior motive for making wrongful gain has raised this dispute.

5. When the matter was posted for the evidence, on behalf of the II party while filing the affidavit of Sh. A M Muneer Ahmed, who claims to have worked from June 1996 to June 1999 as Manager (Establishment) of the II party, Shivajinagar Branch swearing to the contention in the Counter Statement examining him on oath as MW 1 got exhibited Photostat copies of the Agency agreement entered into with the I party by the II party dated 12-04-1972, 30-08-1978, 19-11-1983 and the letter received from the I party dated 22-02-2001 as Ex M-1 to Ex M-4 respectively.

6. Inter alia, the I party while filing his affidavit swearing to the allegations of his Claim Statement examining himself on oath as WW 1 got exhibited Xerox copies of letter addressed by Chief Manager, Shivajinagar Branch to DGM, MIPD, Bangalore Circle Office dated 16-09-1997 regarding NNND Accounts; Letter dated 22-02-2001 written by the I party to the Senior Branch Manager, Infantry Road, Bangalore requesting the II Party to permit him to open more than one account per party; Letter dated 07-10-2003 issued by the Senior Branch Manager, Infantry Road, Bangalore to the I party as reply to I Party letter dated 21-08-2003; Circular No. 67/2004 dated 29-03-2004 enhancing the maximum amount of collection per day per account from ₹ 100.00 to ₹ 500.00 issued by the DGM, Development Section on New Nitya Nidhi Deposit Scheme; News Paper cutting of Sanjevani dated 20-07-2004 informing the customers regarding termination of agency of I Party; copy of order of writ petition 9783/1989 dated 28-03-1997 on the file of Andhra Pradesh High Court; copy of order of Supreme Court in Civil Appeal no. 3355/1998; the letter of appreciation issued

by the General Manager, Canara Bank to the I party dated 16-07-1974 with respect to the deposit secured by him; circular No. 107/1996 dated 09-10-1996 with respect to Writ Petition No. 9783/1989; letter of appreciation addressed by the Chief Manager, Canara Bank, Shivajinagar Branch to him dated 20-09-1997 with respect to the deposit mobilisation; certificate issued by the Senior Manager, Canara Bank, Shivajinagar Branch dated 01-01-1998 regarding his character and work; Carbon copy of letter addressed by him to the Senior Manager, Canara Bank, Shivajinagar Branch, Bangalore dated 02-01-1999 along with the certificate of posting regarding posting the letter dated 02-01-1999 requesting the II Party to continue him as NNND Agent; the carbon copy of my letter addressed to the Manager, Canara Bank, Shivajinagar, dated 03-05-1999 under certificate of posting requesting the II Party to permit him to collect NNND deposits of over ₹ 100.00 per day along with the certificate of posting regarding posting the letter dated 03-05-1999; circular issued by the Head Office bearing No. 88/2001 dated 23-08-2001 regarding NND Agents/NNND Agents/TINY Deposit collection - decision of Hon'ble Supreme Court of India and copy of letter addressed by him to Chairman and Managing Director dated 19-03-2004 requesting to permit him to carry out the duties as NNND agent as Ex W-1 to Ex W-17 respectively.

7. With the above pleadings oral and documentary evidence of both the sides, the arguments of learned advocates for both the sides were heard. It appears the learned advocate appearing for the II Party in view of the judgement of the Hon'ble Supreme Court in the case of Indian Banks Association vs. The workmen of Syndicate Bank and others reported in AIR 2001 SC P 246 wherein it is held that the persons employed by the banks as Pigmy Collectors/Money Deposit Collectors on Commission Basis are workmen within the meaning of definition of workmen under 2(s) of the I D Act did not urge on the II Party contention that I party who worked as a collection agent of the deposit schemes of the II party as not the workman.

8. In view of the Award of the Hyderabad Industrial Tribunal holding the pigmy agents of the different banks as workmen and the remuneration paid to them as Wages which has been upheld by the Andhra Pradesh High Court in W P No. 9783/1989 and Hon'ble Supreme Court the decision of which are reported is AIR 2001 SC 946, now it is settled the deposit collectors under different schemes of all the Bank on commission basis are the workmen and the commission paid to them is wages. Therefore, in view of the admitted fact that in the year 1972 the services of the I Party was availed by the II Party Shivajinagar Branch which later came to be merged in its Infantry Road Branch to collect the deposits under its NND/BKD/NNND schemes in view of the specific contention of the II Party that in the year 1997 on his own he abandoned his agency feeling that the commission he receives would be low due to the restriction one account holder cannot contribute deposit more than ₹ 100.00 only after it raised the maximum collection amount per account holder to ₹ 500.00 in the year 2004 he once again come up with a request to continue his agency and as it had already closed its scheme it formally published in the Sanjevani News Paper his agency being terminated with a view to caution the customers/ depositors not to part with their money the only point that arises for my consideration is

> "Whether II Party prove that I party had abandoned his agency on his own in the year 1997 itself?"

9. From the close reading of the letters of the I party which he claims to have addressed to the Senior Manager, Canara Bank, Shivajinagar Branch produced at Ex W-12, Ex W-14 dated 02-01-1999 and 03-05-1999 it is clear he had felt restricting maximum collection from an account holder to ₹ 100.00 was highly less and he could not get sufficient income and he had made a request to allow a person to open more than one account so that he can collect more money and earn more commission and had stopped collection of the deposits and was persuing the bank either to raise the maximum amount of deposit per account holder or to permit a person to open more than one account. This aspect is further supported or corroborated by his own letter addressed to the Senior Branch Manager, Infantry Road Branch dated 22-02-2001 copy of which is produced at Ex M-4 which reads as under :

> "I have been doing NNND collection work at your Shivajinagar Branch since 1972. I have introduced good many valued clients/depositors to the Bank.
>
> However, during 1997 through branch Inspection it was observed that the account per party should not exceed one and amount ₹ 100 respectively.
>
> I may write here that Shivajinagar area is a commercial/business hub of Bangalore where restriction to collect ₹ 100 per day is a different proposition.
>
> In fact, I had made an representation to the branch to permit to open more than one account per party/ firm since the amount of collection per day is restricted to ₹ 100. My letter has not been replied which forced me to stop NNND collections there afterwards.
>
> Now, I request your goodselves to permit me to restart NNND Collection for your Branch (since Shivajinagar Branch has been merged with your Branch) with the existing terms and conditions as I am interested to collect/canvas NNND account for your Branch. Kindly permit to do so early.
>
> I hope to hear from you in this matter soon.
>
> Thanking you."

10. The plain reading of the above letter especially the matter in unnumbered fourth para that he was forced

to stop NNND collections there afterwards' makes it clear that on his own during 1997 he had stopped making collections due to restrictions of deposit amount per account to ₹ 100.00 and a person was not permitted to open more then one account Thus as contended on behalf of the II Party the I party due to the restrictions of the Bank in making deposits maximum to ₹ 100.00 per account feeling that his commission would be too low he had on his own stopped to collect the deposits and only when the bank raised the maximum to ₹ 500.00 he tried to regain his agency and when the bank did not entertain it and on the other hand made a publication in the Newspaper his services being terminated warning the public not to make any transaction with him he comes up with this dispute. Under the circumstances, I have arrived at conclusion the action of the management of Canara Bank in terminating agency of the I Party w.e.f. July 2004 is legal and justified and that I Party is not entitled for any relief. In the result, I pass the following

ORDER

The Reference is Rejected holding that the action of the management in terminating employment in respect of Shri M. Sadananda Shenoy, NND Agent, Shivajinagar and infantry Branches of Canara Bank, Bangalore w.e.f. July, 2004 is legal and justified and that I party is not entitled for any relief . No order as to cost.

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 1 फरवरी, 2013

का.आ. 490 .—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या सीजीआईटी/एनजीपी/65/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2013 को प्राप्त हुआ था ।

[सं. एल-12011/143/2001-आई आर (बी-II)
शीश राम, अनुभाग अधिकारी

New Delhi, the 1st February, 2013

S.O. 490 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/NGP/65/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 24-1-2013.

[No. L-12011/143/2001-IR (B-II)]

SHEESH RAM, Section Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/65/2001

Date: 15.01.2013

Party No. 1

The Zonal Manger,

Central Bank of India, Oriental Building,

Zonal Office, Kamptee Road,

Nagpur.

Versus

Party No. 2

The General Secretary,

Central Bank Staff Union, Rashtriya

Mill Mazdoor Sangh, Baidyanath Road,

Nagpur-440 003.

AWARD

(Dated : 15th January, 2013)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Central Bank of India and their workmen, Shri G.B. Raipure and four others, for adjudication, as per letter No.L-12011/143/2001-IR (B-II) dated 10.09.2001, with the following schedule :-

"Whether the action of the management of Central Bank of India through its Zonal Manager, Nagpur in not absorbing and regularizing the services of Temporary Safai Karmacharis, Namely S/Sh. G.B. Raipure, J.S. Gondane, Y.A. Pathan, S.P. Chaudhary and S.D. Kamble as permanent part time Safai Karmacharis w.e.f. 01-01-1999 is illgal, proper & justified? If not, to what relief is the workmen entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union, "Central Bank Staff Union", ("the Union" in short) filed the statement of claim on behalf of the five workmen and the management of Central Bank of India, ("Party No.1" in short) filed their written statement.

The case of the workmen as presented by the union in the statement of claim is that it (union) is a registered union under the Trade Unions Act, 1926 and there is no recognized union at Central Bank of India, having been recognized by the Government of India and the party no.1 is a Banking company and is an industry and is covered by the provisions of the Act and so also by the provisions of Bombay Shops and Establishments Act, 1948 and since party no.1 is an establishment by virtue of section 38 (B) of the said Act, the provisions of Industrial Establishment (Standing Orders) Act, 1946 and the Standing Orders

thereunder are applicable to them and the standing ... have got over riding effect over all the agreements ... to them. The further case of the union is that ... employees are appointed on temporary casual basis ... terminated at the whims of party no. 1 and the said ... are not allowed to complete 240 days in a year ... permanency and absorption and such practice is ... illegal and amounts to unfair labour practice and ... Office of party no. 1 issued the circular dated ... for regularisation of temporary safai karmachari ... time, who have been engaged for 240 days in any continuous period of 12 months between the period from ... 1982 to 31-03-1995, with some terms and conditions ... on 29-09-1995, the Regional Manager, Amravati issued ... circular called for application from temporary safai karmachari having the requisite eligibility criteria as stated in the circular dated 21-06-1995, for absorption, from all the branches of the region and after holding interview, all ... were found to be suitable for absorption ... workman were entitled for absorption as part ... safai karmachari from the date of their interview, but ... no. 1 did not absorb them and such action of party ... is illegal and amounts to unfair labour practice and ... the principles of natural justice and breach of the ... by party no. 1 themselves.

The union has also pleaded that all the documents in connection of the workmen are in possession of the party no. 1 and party no. 1 is required to produce the same and the contention of the management that issuance of "No Objection Certificate" was refused by the employment exchange is devoid of any substance and the said requirement cannot override the provisions of standing orders and once an employee completes the requisite number of days of service, he is deemed to be a permanent employee

The union has prayed to declare the five workmen as permanent part time safai karmacharies w.e.f. 01-01-1999 and to grant them all consequential benefits including provident fund.

3. The party no.1 in their written statement have pleaded inter-alia that their Amravati Region had conducted interviews for regularisation of temporary safai karmacharies, who had worked beyond 90 days in a continuous period of 12 months from 01-01-1982 to 31-03-1995, with some terms and conditions and were registered with the employment exchange at Amravati, but not sponsored by the Exchange and after interview of all the candidates, the Regional Office approached the Amravati Employment Exchange vide its letter dated 07-06-1996 for "No Objection Certificate", but the ... exchange vide letter dt. 15-09-1998 refused to ... "No objection certificate", for absorption of the ... and as obtaining of "No objection certificate" ... the employment exchange was mandatory for ... the services of the temporary Safai Karmacharies, as per the Government of India guidelines, the whole process of selection regularisation came to an end and as such, the workmen could not be absorbed and that the workmen are not entitled to any relief

4. It is necessary to mention here that even though number of opportunities was given to the workmen/union to adduce evidence in support of the claim, neither the workmen nor the union adduced any evidence.

5. One Rajendra Laxminarayan Khandelwal, a Senior Manager has been examined as a witness on behalf of the party no. 1. In his examination in chief, which is on affidavit, this witness has reiterated the facts mentioned in the written statement. In the cross-examination, this witness though was asked about the non production of the letter dated 07-09-1996, letter dated 15-09-1998 and the general guide lines issued by the Government of India, his evidence that due to non issuance of "No objection certificate" by the employment exchange, the workmen were absorbed has not at all been challenged.

6. It is to be mentioned here that as on 19-12-2012 to which date the reference was fixed for argument, no body appeared on behalf of the petitioner to make argument. order was passed to proceed with the case ex parte against the petitioner.

7. It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and if no evidence is produced, the party invoking the jurisdiction of the court must fail. In this case, the petitioner has failed to adduce any evidence in support of the claim raised by it on behalf of the workmen. Applying the settled principles as mentioned above to this case, it is found that neither the petitioner nor the workmen are entitled to any relief. Hence, it is ordered :

ORDER

The action of the management of Central Bank of India through its Zonal Manager, Nagpur in not absorbing and regularizing the services of Temporary Safai Karmacharies, Namely S/Sh. G.B. Raipure, J.S. Gondane, Y.A. Pathan, S.P. Chaudhary and S.D. Kamble as permanent part time Safai Karmacharies w.e.f. 01.01.1999 is legal proper and justified. The workmen are not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 1 फरवरी, 2013

का.आ. 491 . औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार क्या चम्पारण क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद के पंचाट (संदर्भ [illegible] धारा 10 (1) (डी) (2ए) को आई.डी. एक्ट 1947 को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-02-2013 को प्राप्त हुआ था।

[सं. एल-12012/164/91-आई आर (बी-I)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 1st February, 2013

S.O.491.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (U/S 10 (1) (d) (2A) of I.D. Act, 1947 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1 Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Kya Champaran Kshtriya Gramin Bank and their workmen, which was received by the Central Government on 01-02-2013.

[No. L-12012/164/91-IR.(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Employer in relation to the management of Kya Champaran Kshetriya Gramin Bank.

AND.

Their workmen

PRESENT: Sri Ranjan Kumar Saran, Presiding Officer.

Appearances :

For the Employers	:	None
For the Workman	:	Sri D. N. Trivedi, Representative
State : Bihar	:	Industry : Bank

Dated 11-12-2012.

AWARD

By order No. L-12012/164/91-IR-(B-3), dt. 04-9-1991, the Govt. of India, Ministry of Labour, has in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal :

SCHEDULE

"Kya Champaran Kshetriya Gramin Bank, Motihari Prabandhan Dwara Karamkar Sri Bakar Ali Ki seva in Dinank 15-10-87 Se Bhang karne Ki Karyavahi Uchit Thi ? Yadi Nahin To Karmkar Kis Anutosh Ka Adhikari Hai?"

1. After receipt of the reference for answer, both the workmen and management are noticed, they submitted written statement and rejoinder. Management examined five witnesses from his side, whereas workman has examined himself in the case.

2. The case of the workman is he was appointed as a messenger in the management bank, by oral order but receiving salary, other benefits, bonus etc. But abruptly he was refused employment for which he raised the dispute. On the other hand, it is the submission of the management that the workman was taken on daily wage basis and he was not given wage on holidays. But subsequently it was noticed that the workman being in collusion with cashier and others misappropriated the bankloans sanctioned, in favour of loances. For which there was enquiry in the bank and from that day the workman voluntarily absented from coming to bank and did not perform his duty and as such he has no claim on bank. The workman case is that the temporary messengers under all the managements raised an industrial dispute which was referred to National Tribunal and it by it's award ordered to regularise all the daily wage workman, from the date of their joining or from the date they are working.

3. But from the evidence of management witness and audit report, it appears that loans of 17 loanees which appears to have been disbursed to them was never disbursed to them. The MW-1 was the clerk-cum-cashier at that point of time and he stated in his evidence that, in his presence, the workman did not approach the then the manager to work in the branch but in cross-examination he has stated that, he cannot say whether the workman was debarred from working in the bank. MW-5 Senior Personnel Officer of the management has submitted in his evidence that, in the said bank the loans when disbursed to the loanee, it was not given to them but curiously during the time in the account of father of the workman that was deposited and subsequently the same was withdrawn by the workman not by his father the witness said, when the question of regularisation came the temporary messengers were called for interview including this workman, other workmen were observed. But as the embezzlement case was these, the workman voluntarily left the work and was not observed . The audit party members also found that the loan amount shown to be disbursed has not been disbursed. The amount deposited in the account of father of the workman and the workman withdrew the same MW-2 and MW-3 are the auditors, who have been examined in the case supported the same.

4. The most important aspect of the case it the statement of workman himself. Certain part of cross-examination part of the workman is extracted here for clearity.

x x xx

In that branch I had Account No. HS-11. This is my Specimen/Signature vide Ext. M-4. There is differences in

my signature as on Exst. M-6 and M-4 and signature on Ext. M-4 is genuine and on Ext. M-6 is incorrect. In that Branch Saving Account No. 340 was in my father's name. On Ext-M 4/2 specimen/ signature on withdrawal form B are my signature on 23-11-1982 and signature of my father was not there withdrawal for account No. 340 was done by me in my signature and my father died in the year about 1982, I cannot say exact date month and year of his death. About Ext. 4/4 filed by the workman and under the L.T.I. of father Neck Md. Ali dated 05-02-1986 he says that he did not remember that this petition was filed by my father on Ext. M-4/3 relating to A/C No.340 with-drawal on specimen signature of mine is given there along with L.T.I. of my father which dt. 05-02-1986. In this account all withdrawals have been made with my signature and not with L.T.I. of my father.

5. From the above statement of workman it is clear that while he is in bank, he has been involved with fraudulent activity and withdrawing money from his father's A/C after the death of his father which is highly objectionable. Moreover curiously money was deposited in his fathers A/C. soon after the disbursement of loans to the loanees and that was with drawn by the workman by his signature without the L.T.I. of his father. No doubt the National Tribunal Awarded to observe all part time messengers to join regular manner, but it has not been stated to absorve fraudulent person having criminal antecedent in bank which is dealing with public money. Moreover a criminal case for bank fraud is also continuing against the workman and other co-accused. Therefore the action of the management is proper. Management has not done any wrong in not regularising a simply daily wage employee who has criminal antecedent and his action is justified and the workman is not entitled to any relief.

6. The award passed against the workman and it is observed that the action of the management is justified.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 फरवरी, 2013

का.आ. 492 .—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 फरवरी, 2013 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप-धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :-

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गांव	
(1)	(2)	
कांचीपुरम जिले में मदुरंतकम तालुक में मदुरंतकम, उतिरमेरूर	1.	ममंदुर
	2.	पलमतुर
	3.	पुक्कातुरै
	4.	पलियानुर
	5.	वैयावुर
	6.	पडलम
	7.	कोलमबाक्कम
	8.	कल्लाबिरनपुरम
	9.	जानकीपुरम
	10.	मेलावलमपेटै
	11.	मेलावलम
	12.	करूंगुली
	13.	मदुरंतकम नगरीय सीमा
	14.	मलैपालयम
	15.	सत्ताम्मै
	16.	पुदुपट्टु
	17.	वेदवलम
	18.	चित्तमंगलम
	19.	पुलुतिवक्कम
	20.	इंदिरापुरम
	21.	मंगलम
	22.	कुमारवाडि
	23.	नटराजपुरम
	24.	सिलवट्टम
	25.	सौतुपक्कम
	26.	पोलमबाक्कम
	27.	इरूमबुलि
	28.	नेतंबाक्कम
	29.	केनराचेरी
	30.	मेलमारूवतुर
	31.	कीलमारूवतुर
	32.	अचरपक्कम
	33.	तेनमाक्कम
	34.	पाक्कम
	35.	कडमलैपुतुर
	36.	पेरूमपेरीकंडिगै
	37.	नेलवेरी/रेत्तमंगलम
	38.	चितंमुर
	39.	सलवाक्कम

2
40. अतिमनम
41. मेदुवालयम
42. ऊनमलै
43. तोलुपेडु

[1a,1&38013@11@2013&,1-,1-&J]

नरेश जायसवाल, अवर सचिव

New Delhi, the 8th February, 2013

S.O. 492 .—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2013 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil-Nadu namely :—

Centre	Area comprising The Revenue Villages of
1	2
Madurantakam in Madurantakam Taluk & Uthiramerur Taluk, Kancheepuram District.	1. Mamandur 2. Pazhamathur 3. Pukkathurai 4. Pazhiyanur 5. Vaiyavur 6. Padalam 7. Kolambakkam 8. Kallabiranpuram 9. Janakipuram 10. Melavalampettai 11. Melavalam 12. Karunguzhi 13. Madurantakam Municipal Limits. 14. Malaipalayam 15. Saththammal 16. Pudupattu 17. Vedavalam 18. Chittamangalam 19. Puzhuthivakkam 20. Indirapuram 21. Mangalam 22. Kumaravadi 23. Natarajapuram 24. Silvattam 25. Soththupakkam 26. Polambakkam 27. Irumbuli 28. Nethambakkam 29. Kenracheri 30. Melmaruvathur 31. Keelmaruvathur 32. Acharapakkam 33. Thenpakam 34. Pakkam 35. Kadamalaiputhur 36. Perumperikandigai 37. Nelveli/Rettamangalam 38. Chithamur 39. Salavakkam 40. Aththimanam 41. Mettupalayam 42. Oonamalai 43. Thozhupedu

[No. S-38013/11/2013-S. S.-I]

NARESH JAISWAL, Under Secy.

नई दिल्ली, 8 फरवरी, 2013

का.आ. 493 .—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 मार्च, 2013 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी हैं) अध्याय-5 और 6 [धारा-76 की उप-धारा-(1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :-

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गांव
(1)	(2)
तिरूल्लूर जिले के पोन्नेरी तालुक में पंचट्टी	1. अतिपेडु 2. चिन्नम्बेडु 3. तुरैनल्लूर 4. इरूलिपट्टु 5. जगन्नाथपुरम 6. कण्णिगैपैर 7. कारनोडै 8. कीलमेनी 9. माधवरम 10. मंजकरनै 11. नल्लूर

2
12. पंचट्टी
13. पेरवल्लूर
14. तच्चूर

[सं. एस-38013/12/2013-एस.एस.-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 8th February, 2013

S.O. 493 .—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2013 as the date on which the provisions of Chapter IV [except Sections 44 and 45 which have already been brought into force] and Chapters-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil-Nadu namely :—

Centre	Area comprising the Revenue Villages of
1	2
Panjetti area in Ponneri Taluk, Tiruvallur District.	1. Athipedu, 2. Chinnambedu 3. Durainallur 4. Irulipattu 5. Jegannathapuram 6. Kannigaipair, 7. Karanodai, 8. Kilmeni 9. Madhavaram, 10. Manjakaranai 11. Nallur, 12. Panjetti 13. Peravallur 14. Thachur

[No. S-38013/12/2013-S.S.-I]

NARESH JAISWAL, Under Secy.

नई दिल्ली, 8 फरवरी, 2013

का.आ. 494 .—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 01 मार्च, 2013 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी हैं) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :-

केन्द्र	निम्न क्षेत्र के अंतर्गत आने वाले राजस्व गांव
विरुदुनगर जिले के सिवकासी तालुक में सातूर उप नगर	1. सुब्रमणियपुरम 2. संकरनाथम

[सं. एस-38013/13/2013-एस.एस.-I]

नरेश जायसवाल, अवर सचिव

New Delhi, the 8th February, 2013

S.O. 494 .—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2013 as the date on which the provisions of Chapter IV [Except Sections 44 and 45 which have already been brought into force] and Chapters-V and VI [except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil-Nadu namely :—

Centre	Area comprising the Revenue Villages of
Sattur Suburbs, Sivakasi Taluk, Virudhunagar District.	1. Subramaniapuram 2. Sankaranatham

[No. S-38013/13/2013-S.S.-I]

NARESH JAISWAL, Under Secy.

नई दिल्ली, 15 फरवरी, 2013

का.आ. 495.— केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि रक्षा प्रतिष्ठान में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 8 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए ।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (न) के उप खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[सं. एस-11017/8/2011-आई आर (पी.एल.)]

चन्द्र प्रकाश, संयुक्त सचिव

New Delhi, the 15th February, 2013

S.O. 495 .—Whereas the Central Government is satisfied that the public interest requires that the services in the 'Defence establishments' which is covered by item 8 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a 'Public Utility Service' for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a 'Public Utility Service' for the purpose of the said Act for a period of six months.

[No. S-11017/8/2011-IR(PL)]

CHANDRA PRAKASH, Jt. Secy.

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054